



Senate

General Assembly

File No. 154

January Session, 2007

Senate Bill No. 1380

Senate, March 27, 2007

The Committee on Labor and Public Employees reported through SEN. PRAGUE of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

***AN ACT CONCERNING OVERTIME PAY FOR DELIVERY DRIVERS
AND SALES MERCHANTISERS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (1) of section 31-76b of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2007*):

4 (1) The "regular rate" at which an employee is employed shall be
5 deemed to include all remuneration for employment paid to, or on
6 behalf of, the employee, but shall not be deemed to include (A) sums
7 paid as gifts; payments in the nature of gifts made at Christmas time or
8 on other special occasions, as a reward for service, the amounts of
9 which are not measured by or dependent on hours worked,
10 production or efficiency; (B) payments made for occasional periods
11 when no work is performed due to vacation, holiday, illness, failure of
12 the employer to provide sufficient work, or other similar cause;
13 reasonable payments for traveling expenses, or other expenses,
14 incurred by an employee in the furtherance of the employer's interests

15 and properly reimbursable by the employer; and other similar
16 payments to an employee that are not made as compensation for the
17 employee's hours of employment; (C) sums paid in recognition of
18 services performed during a given period if either, (i) both the fact that
19 payment is to be made and the amount of the payment are determined
20 at the sole discretion of the employer at or near the end of the period
21 and not pursuant to any prior contract, agreement or promise causing
22 the employee to expect such payments regularly; or (ii) the payments
23 are made pursuant to a bona fide profit-sharing plan or trust or bona
24 fide thrift or savings plan, meeting the approval of the Labor
25 Commissioner who shall give due regard, among other relevant
26 factors, to the extent to which the amounts paid to the employee are
27 determined with regard to hours of work, production or efficiency; (D)
28 contributions irrevocably made by an employer to a trustee or third
29 person pursuant to a bona fide plan for providing old-age, retirement,
30 life, accident or health insurance or similar benefits for employees; (E)
31 extra compensation provided by a premium rate paid for certain hours
32 worked by the employee in any day or workweek because such hours
33 are hours worked in excess of eight in a day or in excess of the
34 maximum workweek applicable to such employee under section 31-
35 76c, or in excess of the employee's normal working hours or regular
36 working hours, as the case may be; (F) extra compensation provided
37 by a premium rate paid for work by the employee on Saturdays,
38 Sundays, holidays or regular days of rest, or on the sixth or seventh
39 day of the workweek, where such premium rate is not less than one
40 and one-half times the rate established in good faith for like work
41 performed in nonovertime hours on other days; or (G) extra
42 compensation provided by a premium rate paid to the employee, in
43 pursuance of an applicable employment contract or collective-
44 bargaining agreement, for work outside of the hours established in
45 good faith by the contract or agreement as the basic, normal or regular
46 workday, not exceeding the maximum workweek applicable to such
47 employee under section 31-76c, where such premium rate is not less
48 than one and one-half times the rate established in good faith by the
49 contract or agreement for like work performed during such workday

50 or workweek. For the purpose of calculating the overtime rate of
51 compensation required to be paid to an employee who is (i) employed
52 as a delivery driver or sales merchandiser, (ii) paid on a base salary
53 and commission basis, and (iii) not exempt from the overtime
54 requirements of this chapter, the employee's regular rate shall be one-
55 fortieth of the employee's weekly remuneration. Where a delivery
56 driver or sales merchandiser completes forty hours or more of work in
57 less than five days, such driver or sales merchandiser shall be paid the
58 base salary for forty hours, regardless of when the driver or sales
59 merchandiser was scheduled to work or the number of hours worked
60 in any day.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2007	31-76b(1)

LAB *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill specifies the minimum base pay period for delivery drivers and sales merchandisers who work at least 40 hours a week and receive a weekly base pay plus commission. This affects private companies such as soda and bread providers, and has no fiscal impact on the state or municipalities.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**SB 1380*****AN ACT CONCERNING OVERTIME PAY FOR DELIVERY DRIVERS AND SALES MERCHANDISERS.*****SUMMARY:**

This bill creates a floor for the base pay period for delivery drivers or sales merchandisers who work at least 40 hours a week and are compensated with base pay and commission.

By law, the overtime pay for a person employed as a delivery driver or a sales merchandiser must be calculated from the individual's total weekly remuneration, which is base pay plus commission. This bill requires that any such employee who completes 40 hours or more of work in less than five days be paid the base salary for 40 hours, regardless of when the employee is scheduled to work or the number of hours worked in a day. This means that when overtime is calculated for such an employee, the base pay will be for a full 40-hour week even if the work is done in four or fewer days.

EFFECTIVE DATE: July 1, 2007

BACKGROUND***Overtime***

State and federal laws require that, for all employees subject to overtime rules, the overtime hourly rate is one-and-a-half times the employee's regular rate. The regular rate is 1/40th of the employee's weekly remuneration. The law exempts some employees, such as salespeople and executives, from overtime requirements.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable

Yea 9 Nay 1 (03/13/2007)