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S.B. 243*
133rd General Assembly

Bill Analysis

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Version: As Reported by Senate Transportation, Commerce and Workforce

Primary Sponsors: Sens. Brenner and Peterson

Kelly Bomba, Attorney

SUMMARY

- Exempts an employer from Ohio's requirement to pay overtime wages when an employee is engaged in traveling to and from a worksite or performing certain preliminary or postliminary tasks.

DETAILED ANALYSIS

Overtime compensation exemption

The bill exempts, subject to the exceptions below, an employer from Ohio's requirement to pay overtime wages to an employee for any time the employee spends doing either of the following:

- Traveling to or from the location where the employee performs the principal activity the employee is employed to perform;
- Performing tasks that are preliminary or postliminary to the principal activity that the employee is employed to perform, including de minimis time spent checking scheduled assignments, work locations, electronic mail messages, voice messages, or calendars.

The bill's exemption applies regardless of whether the activity is performed customarily, regularly, infrequently, or sporadically and whether the employee performs the activity before the time the employee begins the work day or after the time the employee ends the work day.¹

* This analysis was prepared before the report of the Senate Transportation, Commerce and Workforce Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

¹ R.C. 4111.03 and 4111.031(A).

Exceptions to the exemption

The bill's exemption does not apply if an employee performs preliminary or postliminary tasks under either of the following circumstances:

- The employee performs the task during the regular work day or during prescribed hours;
- The employee performs the task at the employer's specific direction.²

Background and federal law

Ohio's Overtime Law³ requires an employer to pay an employee overtime pay of one and a half times the employee's regular hourly wage rate for hours worked in excess of 40 hours in a seven-day workweek, in the manner and methods provided in and subject to the exemptions of the federal Fair Labor Standards Act⁴ (FLSA). The federal Portal-to-Portal Act of 1947⁵ includes an exemption to the FLSA that is similar the bill's exemption.⁶

The FLSA and Ohio's Overtime Law both to regulate overtime wages that an employer must pay the employer's employees. An employer may be subject to one or both laws. The FLSA specifies that if an employer is subject to both laws, the employer is governed by the law that establishes the lower maximum workweek.⁷ Under continuing law, Ohio has the same maximum workweek as specified in the FLSA (40 hours per week).

HISTORY

Action	Date
Introduced	11-26-19
Reported, S. Transportation, Commerce and Workforce	---

S0243-RS-133/ar

² R.C. 4111.031(B).

³ R.C. 4111.03.

⁴ 29 United States Code (U.S.C.) 201 *et seq.*

⁵ 29 U.S.C. 251-262.

⁶ 29 U.S.C. 254(a).

⁷ 29 U.S.C. 218.