

Wage and Hour Division, Labor

§ 793.1

(1) Where there is an arrangement between the employers to share the employee's services, as, for example, to interchange employees;⁶ or

(2) Where one employer is acting directly or indirectly in the interest of the other employer (or employers) in relation to the employee;⁷ or

(3) Where the employers are not completely disassociated with respect to the employment of a particular employee and may be deemed to share control of the employee, directly or indirectly, by reason of the fact that one employer controls, is controlled by, or is under common control with the other employer.⁸

[23 FR 5905, Aug. 5, 1958, as amended at 26 FR 7732, Aug. 18, 1961]

PART 793—EXEMPTION OF CERTAIN RADIO AND TELEVISION STATION EMPLOYEES FROM OVERTIME PAY REQUIREMENTS UNDER SECTION 13(b)(9) OF THE FAIR LABOR STANDARDS ACT

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⁶*Mid-Continent Pipeline Co., et al. v. Hargrave*, 129 F. 2d 655 (C.A. 10); *Slover v. Wathen*, 140 F. 2d 258 (C.A. 4); *Mitchell v. Bowman*, 131 F. Supp., 520 (M.D. Ala. 1954); *Mitchell v. Thompson Materials & Construction Co., et al.*, 27 Labor Cases Para. 68, 888; 12 WH Cases 367 (S.D. Calif. 1954).

⁷Section 3(d) of the Act; *Greenberg v. Arsenal Building Corp., et al.*, 144 F. 2d 292 (C.A. 2).

⁸*Dolan v. Day & Zimmerman, Inc., et al.*, 65 F. Supp. 923 (D. Mass. 1946); *McComb v. Midwest Rust Proof Co., et al.*, 16 Labor Cases Para. 64, 927; 8 WH Cases 460 (E.D. Mo. 1948); *Durkin v. Waldron., et al.*, 130 F. Supp., 501 (W.D. La. 1955). See also *Wabash Radio Corp. v. Walling*, 162 F. 2d 391 (C.A. 6).

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AUTHORITY: Secs. 1-19, 52 Stat. 1060, as amended; 75 Stat. 65; 29 U.S.C. 201-219.

SOURCE: 26 FR 10275, Nov. 2, 1961, unless otherwise noted.

INTRODUCTORY

§ 793.0 Purpose of interpretative bulletin.

This part 793 constitutes the official interpretative bulletin of the Department of Labor with respect to the meaning and application of section 13(b)(9) of the Fair Labor Standards Act of 1938, as amended. This section provides an exemption from the overtime pay provisions of the Act for certain employees employed by certain small market radio and television stations. This exemption was added to the Act by the 1961 amendments. It is the purpose of this bulletin to make available in one place the interpretations of the provisions in section 13(b) (9) which will guide the Secretary of Labor and the Administrator in the performance of their duties under the Act unless and until they are otherwise directed by authoritative decisions of the courts or conclude, upon re-examination of an interpretation, that it is incorrect.

§ 793.1 Reliance upon interpretations.

The interpretations of the law contained in this part are official interpretations which may be relied upon as provided in section 10 of the Portal-to-Portal Act of 1947. All prior opinions, rulings and interpretations which are inconsistent with the interpretations in this bulletin are rescinded and withdrawn.