

ASSEMBLY BILL NO. 339—ASSEMBLYMEN LIVERMORE;
PAUL ANDERSON, HARDY AND WHEELER

MARCH 18, 2013

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing compensation for overtime. (BDR 53-968)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to compensation; revising provisions governing compensation for overtime; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides that an employer is not required to pay compensation for
2 overtime to an employee who works a scheduled 10 hours per day for 4 calendar
3 days within any scheduled week of work. (NRS 608.018) This bill provides that if
4 an employer and employee have mutually agreed upon the employee working a
5 scheduled 10 hours per day for 4 calendar days within any scheduled week of work
6 and the employee does not work the 40 hours scheduled because of circumstances
7 beyond the control of the employer, the employer is authorized to pay the employee
8 only the employee’s regular wage rate for the hours the employee actually worked.
9 This bill also provides that if an employee does not work the 40 hours scheduled
10 because of a decision made by the employer, the employer is required to pay the
11 employee overtime compensation for any day during the workweek in which the
12 employee worked more than 8 hours. Finally, this bill provides that if an employer
13 and employee have mutually agreed upon the employee working a scheduled 10
14 hours per day for 4 calendar days within any scheduled week of work, the employer
15 must pay the employee overtime compensation whenever the employee works more
16 than 10 hours in any workday.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 608.018 is hereby amended to read as follows:
2 608.018 1. An employer shall pay 1 1/2 times an employee’s
3 regular wage rate whenever an employee who receives



* A B 3 3 9 R 1 *

1 compensation for employment at a rate less than 1 1/2 times the
2 minimum rate prescribed pursuant to NRS 608.250 works:

3 (a) More than 40 hours in any scheduled week of work; or

4 (b) More than 8 hours in any workday unless by mutual
5 agreement the employee ~~works at~~ is scheduled to work 10 hours
6 per day for 4 calendar days within any scheduled week of work ~~H~~

7 *subject to the following provisions:*

8 *(1) If the employee does not work 40 hours in any*
9 *scheduled week of work pursuant to this paragraph because of a*
10 *decision made by the employee, a natural disaster, inclement*
11 *weather, the tardiness of the employee, an illness of the employee*
12 *or any other circumstance beyond the control of the employer,*
13 *except as otherwise provided in subparagraph (3), the employer*
14 *may pay the employee the employee's regular wage rate for the*
15 *hours the employee actually worked.*

16 *(2) If the employee does not work 40 hours in any*
17 *scheduled week of work pursuant to this paragraph because of a*
18 *decision made by the employer, the employer must pay the*
19 *employee 1 1/2 times the employee's regular wage rate for any*
20 *workday during that week of work in which the employee worked*
21 *more than 8 hours.*

22 *(3) Except as otherwise provided in subparagraph (2), the*
23 *employer shall pay 1 1/2 times the employee's regular wage rate*
24 *whenever the employee works more than 10 hours in any workday.*

25 2. An employer shall pay 1 1/2 times an employee's regular
26 wage rate whenever an employee who receives compensation for
27 employment at a rate not less than 1 1/2 times the minimum rate
28 prescribed pursuant to NRS 608.250 works more than 40 hours in
29 any scheduled week of work.

30 3. The provisions of subsections 1 and 2 do not apply to:

31 (a) Employees who are not covered by the minimum wage
32 provisions of NRS 608.250;

33 (b) Outside buyers;

34 (c) Employees in a retail or service business if their regular rate
35 is more than 1 1/2 times the minimum wage, and more than half
36 their compensation for a representative period comes from
37 commissions on goods or services, with the representative period
38 being, to the extent allowed pursuant to federal law, not less than 1
39 month;

40 (d) Employees who are employed in bona fide executive,
41 administrative or professional capacities;

42 (e) Employees covered by collective bargaining agreements
43 which provide otherwise for overtime;

44 (f) Drivers, drivers' helpers, loaders and mechanics for motor
45 carriers subject to the Motor Carrier Act of 1935, as amended;



- 1 (g) Employees of a railroad;
- 2 (h) Employees of a carrier by air;
- 3 (i) Drivers or drivers' helpers making local deliveries and paid
- 4 on a trip-rate basis or other delivery payment plan;
- 5 (j) Drivers of taxicabs or limousines;
- 6 (k) Agricultural employees;
- 7 (l) Employees of business enterprises having a gross sales
- 8 volume of less than \$250,000 per year;
- 9 (m) Any salesperson or mechanic primarily engaged in selling
- 10 or servicing automobiles, trucks or farm equipment; and
- 11 (n) A mechanic or worker for any hours to which the provisions
- 12 of subsection 3 or 4 of NRS 338.020 apply.
- 13 **Sec. 2.** This act becomes effective on July 1, 2013.

