

in 1 or more health benefits plans shall automatically enroll new full-time employees in one of the plans offered (subject to any waiting period authorized by law) and to continue the enrollment of current employees in a health benefits plan offered through the employer. Any automatic enrollment program shall include adequate notice and the opportunity for an employee to opt out of any coverage the individual or employee were¹ automatically enrolled in. Nothing in this section shall be construed to supersede any State law which establishes, implements, or continues in effect any standard or requirement relating to employers in connection with payroll except to the extent that such standard or requirement prevents an employer from instituting the automatic enrollment program under this section.

(June 25, 1938, ch. 676, §18A, as added Pub. L. 111-148, title I, §1511, Mar. 23, 2010, 124 Stat. 252.)

§ 218b. Notice to employees

(a) In general

In accordance with regulations promulgated by the Secretary, an employer to which this chapter applies, shall provide to each employee at the time of hiring (or with respect to current employees, not later than March 1, 2013), written notice—

(1) informing the employee of the existence of an Exchange, including a description of the services provided by such Exchange, and the manner in which the employee may contact the Exchange to request assistance;

(2) if the employer plan's share of the total allowed costs of benefits provided under the plan is less than 60 percent of such costs, that the employee may be eligible for a premium tax credit under section 36B of title 26 and a cost sharing reduction under section 18071 of title 42 if the employee purchases a qualified health plan through the Exchange; and

(3) if the employee purchases a qualified health plan through the Exchange, the employee may lose the employer contribution (if any) to any health benefits plan offered by the employer and that all or a portion of such contribution may be excludable from income for Federal income tax purposes.

(b) Effective date

Subsection (a) shall take effect with respect to employers in a State beginning on March 1, 2013.

(June 25, 1938, ch. 676, §18B, as added and amended Pub. L. 111-148, title I, §1512, title X, §10108(i)(2), Mar. 23, 2010, 124 Stat. 252, 914; Pub. L. 112-10, div. B, title VIII, §1858(c), Apr. 15, 2011, 125 Stat. 169.)

AMENDMENTS

2011—Subsec. (a)(3). Pub. L. 112-10 struck out “and the employer does not offer a free choice voucher” after “Exchange”.

2010—Subsec. (a)(3). Pub. L. 111-148, §10108(i)(2), inserted “and the employer does not offer a free choice voucher” after “Exchange” and substituted “may lose” for “will lose”.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-10 effective as if included in the provisions of, and the amendments made by, the

provisions of Pub. L. 111-148 to which it relates, see section 1858(d) of Pub. L. 112-10, set out as a note under section 36B of Title 26, Internal Revenue Code.

§ 218c. Protections for employees

(a) Prohibition

No employer shall discharge or in any manner discriminate against any employee with respect to his or her compensation, terms, conditions, or other privileges of employment because the employee (or an individual acting at the request of the employee) has—

(1) received a credit under section 36B of title 26 or a subsidy under section 18071 of title 42;¹

(2) provided, caused to be provided, or is about to provide or cause to be provided to the employer, the Federal Government, or the attorney general of a State information relating to any violation of, or any act or omission the employee reasonably believes to be a violation of, any provision of this title¹ (or an amendment made by this title);¹

(3) testified or is about to testify in a proceeding concerning such violation;

(4) assisted or participated, or is about to assist or participate, in such a proceeding; or

(5) objected to, or refused to participate in, any activity, policy, practice, or assigned task that the employee (or other such person) reasonably believed to be in violation of any provision of this title¹ (or amendment), or any order, rule, regulation, standard, or ban under this title¹ (or amendment).

(b) Complaint procedure

(1) In general

An employee who believes that he or she has been discharged or otherwise discriminated against by any employer in violation of this section may seek relief in accordance with the procedures, notifications, burdens of proof, remedies, and statutes of limitation set forth in section 2087(b) of title 15.

(2) No limitation on rights

Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law or under any collective bargaining agreement. The rights and remedies in this section may not be waived by any agreement, policy, form, or condition of employment.

(June 25, 1938, ch. 676, §18C, as added Pub. L. 111-148, title I, §1558, Mar. 23, 2010, 124 Stat. 261.)

REFERENCES IN TEXT

Section 18071 of title 42, referred to in subsec. (a)(1), was in the original “section 1402 of this Act”, and was translated as meaning section 1402 of the Patient Protection and Affordable Care Act, which is classified to section 18071 of title 42, to reflect the probable intent of Congress.

This title, referred to in subsec. (a)(2), (5), probably means title I of Pub. L. 111-148, Mar. 23, 2011, 124 Stat. 130. For complete classification of title I to the Code, see Tables.

Section 2087(b) of title 15, referred to in subsec. (b)(1), was in the original “section 2807(b) of title 15”, and probably should have read “section 40(b) of the Con-

¹ So in original. Probably should be “was”.

¹ See References in Text note below.

sumer Product Safety Act", which is classified to section 2087(b) of Title 15, Commerce and Trade.

§ 219. Separability

If any provision of this chapter or the application of such provision to any person or circumstance is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

(June 25, 1938, ch. 676, § 19, 52 Stat. 1069.)

CHAPTER 9—PORTAL-TO-PORTAL PAY

Sec.	
251.	Congressional findings and declaration of policy.
252.	Relief from certain existing claims under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, and the Bacon-Davis Act.
253.	Compromise and waiver.
254.	Relief from liability and punishment under the Fair Labor Standards Act of 1938, the Walsh-Healey Act, and the Bacon-Davis Act for failure to pay minimum wage or overtime compensation.
255.	Statute of limitations.
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257.	Pending collective and representative actions.
258.	Reliance on past administrative rulings, etc.
259.	Reliance in future on administrative rulings, etc.
260.	Liquidated damages.
261.	Applicability of "area of production" regulations.
262.	Definitions.

§ 251. Congressional findings and declaration of policy

(a) The Congress finds that the Fair Labor Standards Act of 1938, as amended [29 U.S.C. 201 et seq.], has been interpreted judicially in disregard of long-established customs, practices, and contracts between employers and employees, thereby creating wholly unexpected liabilities, immense in amount and retroactive in operation, upon employers with the results that, if said Act as so interpreted or claims arising under such interpretations were permitted to stand, (1) the payment of such liabilities would bring about financial ruin of many employers and seriously impair the capital resources of many others, thereby resulting in the reduction of industrial operations, halting of expansion and development, curtailing employment, and the earning power of employees; (2) the credit of many employers would be seriously impaired; (3) there would be created both an extended and continuous uncertainty on the part of industry, both employer and employee, as to the financial condition of productive establishments and a gross inequality of competitive conditions between employers and between industries; (4) employees would receive windfall payments, including liquidated damages, of sums for activities performed by them without any expectation of reward beyond that included in their agreed rates of pay; (5) there would occur the promotion of increasing demands for payment to employees for engaging in activities no com-

pensation for which had been contemplated by either the employer or employee at the time they were engaged in; (6) voluntary collective bargaining would be interfered with and industrial disputes between employees and employers and between employees and employees would be created; (7) the courts of the country would be burdened with excessive and needless litigation and champertous practices would be encouraged; (8) the Public Treasury would be deprived of large sums of revenues and public finances would be seriously deranged by claims against the Public Treasury for refunds of taxes already paid; (9) the cost to the Government of goods and services heretofore and hereafter purchased by its various departments and agencies would be unreasonably increased and the Public Treasury would be seriously affected by consequent increased cost of war contracts; and (10) serious and adverse effects upon the revenues of Federal, State, and local governments would occur.

The Congress further finds that all of the foregoing constitutes a substantial burden on commerce and a substantial obstruction to the free flow of goods in commerce.

The Congress, therefore, further finds and declares that it is in the national public interest and for the general welfare, essential to national defense, and necessary to aid, protect, and foster commerce, that this chapter be enacted.

The Congress further finds that the varying and extended periods of time for which, under the laws of the several States, potential retroactive liability may be imposed upon employers, have given and will give rise to great difficulties in the sound and orderly conduct of business and industry.

The Congress further finds and declares that all of the results which have arisen or may arise under the Fair Labor Standards Act of 1938, as amended, as aforesaid, may (except as to liability for liquidated damages) arise with respect to the Walsh-Healey and Bacon-Davis Acts¹ and that it is, therefore, in the national public interest and for the general welfare, essential to national defense, and necessary to aid, protect, and foster commerce, that this chapter shall apply to the Walsh-Healey Act and the Bacon-Davis Act.¹

(b) It is declared to be the policy of the Congress in order to meet the existing emergency and to correct existing evils (1) to relieve and protect interstate commerce from practices which burden and obstruct it; (2) to protect the right of collective bargaining; and (3) to define and limit the jurisdiction of the courts.

(May 14, 1947, ch. 52, § 1, 61 Stat. 84.)

REFERENCES IN TEXT

The Fair Labor Standards Act of 1938, as amended, referred to in subsec. (a), is act June 25, 1938, ch. 676, 52 Stat. 1060, which is classified generally to chapter 8 (§ 201 et seq.) of this title. For complete classification of this Act to the Code, see section 201 of this title and Tables.

This chapter, referred to in subsec. (a), was in the original "this Act", meaning act May 14, 1947, ch. 52, 61 Stat. 84, known as the Portal-to-Portal Act of 1947, which enacted this chapter and amended section 216 of this title. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

¹ See References in Text note below.