

(May 14, 1947, ch. 52, § 2, 61 Stat. 85.)

REFERENCES IN TEXT

The Fair Labor Standards Act of 1938, as amended, referred to in subsecs. (a), (c) to (e), 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.

The Walsh-Healey and Bacon-Davis Acts, referred to in subsecs. (a), (c) to (e), are defined for purposes of this chapter in section 262 of this title.

**§ 253. Compromise and waiver**

**(a) Compromise of certain existing claims under the Fair Labor Standards Act of 1938, the Walsh-Healey Act, or the Bacon-Davis Act; limitations**

Any cause of action under the Fair Labor Standards Act of 1938, as amended [29 U.S.C. 201 et seq.], the Walsh-Healey Act, or the Bacon-Davis Act,<sup>1</sup> which accrued prior to May 14, 1947, or any action (whether instituted prior to or on or after May 14, 1947) to enforce such a cause of action, may hereafter be compromised in whole or in part, if there exists a bona fide dispute as to the amount payable by the employer to his employee; except that no such action or cause of action may be so compromised to the extent that such compromise is based on an hourly wage rate less than the minimum required under such Act, or on a payment for overtime at a rate less than one and one-half times such minimum hourly wage rate.

**(b) Waiver of liquidated damages under Fair Labor Standards Act of 1938**

Any employee may hereafter waive his right under the Fair Labor Standards Act of 1938, as amended [29 U.S.C. 201 et seq.], to liquidated damages, in whole or in part, with respect to activities engaged in prior to May 14, 1947.

**(c) Satisfaction**

Any such compromise or waiver, in the absence of fraud or duress, shall, according to the terms thereof, be a complete satisfaction of such cause of action and a complete bar to any action based on such cause of action.

**(d) Retroactive effect of section**

The provisions of this section shall also be applicable to any compromise or waiver heretofore so made or given.

**(e) "Compromise" defined**

As used in this section, the term "compromise" includes "adjustment", "settlement", and "release".

(May 14, 1947, ch. 52, § 3, 61 Stat. 86.)

REFERENCES IN TEXT

The Fair Labor Standards Act of 1938, as amended, referred to in subsecs. (a) and (b), 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.

The Walsh-Healey and Bacon-Davis Acts, referred to in subsec. (a), are defined for purposes of this chapter in section 262 of this title.

<sup>1</sup> See References in Text note below.

**§ 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**

**(a) Activities not compensable**

Except as provided in subsection (b), no employer shall be subject to any liability or punishment under the Fair Labor Standards Act of 1938, as amended [29 U.S.C. 201 et seq.], the Walsh-Healey Act, or the Bacon-Davis Act,<sup>1</sup> on account of the failure of such employer to pay an employee minimum wages, or to pay an employee overtime compensation, for or on account of any of the following activities of such employee engaged in on or after May 14, 1947—

(1) walking, riding, or traveling to and from the actual place of performance of the principal activity or activities which such employee is employed to perform, and

(2) activities which are preliminary to or postliminary to said principal activity or activities,

which occur either prior to the time on any particular workday at which such employee commences, or subsequent to the time on any particular workday at which he ceases, such principal activity or activities. For purposes of this subsection, the use of an employer's vehicle for travel by an employee and activities performed by an employee which are incidental to the use of such vehicle for commuting shall not be considered part of the employee's principal activities if the use of such vehicle for travel is within the normal commuting area for the employer's business or establishment and the use of the employer's vehicle is subject to an agreement on the part of the employer and the employee or representative of such employee.

**(b) Compensability by contract or custom**

Notwithstanding the provisions of subsection (a) which relieve an employer from liability and punishment with respect to any activity, the employer shall not be so relieved if such activity is compensable by either—

(1) an express provision of a written or non-written contract in effect, at the time of such activity, between such employee, his agent, or collective-bargaining representative and his employer; or

(2) a custom or practice in effect, at the time of such activity, at the establishment or other place where such employee is employed, covering such activity, not inconsistent with a written or nonwritten contract, in effect at the time of such activity, between such employee, his agent, or collective-bargaining representative and his employer.

**(c) Restriction on activities compensable under contract or custom**

For the purposes of subsection (b), an activity shall be considered as compensable under such contract provision or such custom or practice only when it is engaged in during the portion of the day with respect to which it is so made compensable.

<sup>1</sup> See References in Text note below.