

§ 218. Relation to other laws

(a) No provision of this chapter or of any order thereunder shall excuse noncompliance with any Federal or State law or municipal ordinance establishing a minimum wage higher than the minimum wage established under this chapter or a maximum work week lower than the maximum workweek established under this chapter, and no provision of this chapter relating to the employment of child labor shall justify non-compliance with any Federal or State law or municipal ordinance establishing a higher standard than the standard established under this chapter. No provision of this chapter shall justify any employer in reducing a wage paid by him which is in excess of the applicable minimum wage under this chapter, or justify any employer in increasing hours of employment maintained by him which are shorter than the maximum hours applicable under this chapter.

(b) Notwithstanding any other provision of this chapter (other than section 213(f) of this title) or any other law—

(1) any Federal employee in the Canal Zone engaged in employment of the kind described in section 5102(c)(7) of title 5, or

(2) any employee employed in a non-appropriated fund instrumentality under the jurisdiction of the Armed Forces,

shall have his basic compensation fixed or adjusted at a wage rate that is not less than the appropriate wage rate provided for in section 206(a)(1) of this title (except that the wage rate provided for in section 206(b) of this title shall apply to any employee who performed services during the workweek in a work place within the Canal Zone), and shall have his overtime compensation set at an hourly rate not less than the overtime rate provided for in section 207(a)(1) of this title.

(June 25, 1938, ch. 676, §18, 52 Stat. 1069; Pub. L. 89-601, title III, §306, Sept. 23, 1966, 80 Stat. 841; Pub. L. 90-83, §8, Sept. 11, 1967, 81 Stat. 222.)

Editorial Notes

REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (b), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1967—Subsec. (b). Pub. L. 90-83 substituted reference to section 5102(c)(7) of title 5 for reference to par. (7) of section 202 of the Classification Act of 1949 to reflect the amendment of section 5341(a) of title 5 by section 1(97) of Pub. L. 90-83 and struck out provision covering employees described in section 7474 of title 10 in view of the repeal of section 7474 of title 10 by Pub. L. 89-554.

1966—Pub. L. 89-601 designated existing provisions as subsec. (a) and added subsec. (b).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-601 effective Feb. 1, 1967, except as otherwise provided, see section 602 of Pub. L. 89-601, set out as a note under section 203 of this title.

RULES, REGULATIONS, AND ORDERS PROMULGATED WITH REGARD TO 1966 AMENDMENTS

Secretary authorized to promulgate necessary rules, regulations, or orders on and after the date of the en-

actment of Pub. L. 89-601, Sept. 23, 1966, with regard to the amendments made by Pub. L. 89-601, see section 602 of Pub. L. 89-601, set out as a note under section 203 of this title.

§ 218a. Repealed. Pub. L. 114-74, title VI, § 604, Nov. 2, 2015, 129 Stat. 599

Section, act June 25, 1938, ch. 676, §18A, as added Pub. L. 111-148, title I, §1511, Mar. 23, 2010, 124 Stat. 252, related to automatic enrollment for employees of large employers.

§ 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.)

Editorial Notes

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”.

Statutory Notes and Related Subsidiaries

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.)

Editorial Notes

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

§ 218d. Breastfeeding accommodations in the workplace

(a) In general

An employer shall provide—

(1) a reasonable break time for an employee to express breast milk for such employee’s nursing child for 1 year after the child’s birth each time such employee has need to express the milk; and

(2) a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.

(b) Compensation

(1) In general

Subject to paragraph (2), an employer shall not be required to compensate an employee receiving reasonable break time under subsection (a)(1) for any time spent during the workday for such purpose unless otherwise required by Federal or State law or municipal ordinance.

(2) Relief from duties

Break time provided under subsection (a)(1) shall be considered hours worked if the employee is not completely relieved from duty during the entirety of such break.

(c) Exemption for small employers

An employer that employs less than 50 employees shall not be subject to the requirements of this section, if such requirements would impose an undue hardship by causing the employer significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the employer’s business.

(d) Exemption for crewmembers of air carriers

(1) In general

An employer that is an air carrier shall not be subject to the requirements of this section with respect to an employee of such air carrier who is a crewmember¹

(2) Definitions

In this subsection:

(A) Air carrier

The term “air carrier” has the meaning given such term in section 40102 of title 49.

(B) Crewmember

The term “crewmember” has the meaning given such term in section 1.1 of title 14, Code of Federal Regulations (or successor regulations).

(e) Applicability to rail carriers

(1) In general

Except as provided in paragraph (2), an employer that is a rail carrier shall be subject to the requirements of this section.

(2) Certain employees

An employer that is a rail carrier shall be subject to the requirements of this section with respect to an employee of such rail carrier who is a member of a train crew involved in the movement of a locomotive or rolling stock or who is an employee who maintains the right of way, provided that compliance with the requirements of this section does not—

¹ See References in Text note below.

¹ So in original. Probably should be followed by a period.