

109TH CONGRESS
1ST SESSION

S. 223

To amend the Fair Labor Standards Act of 1938 to repeal any weakening of overtime protections and to avoid future loss of overtime protections due to inflation.

IN THE SENATE OF THE UNITED STATES

JANUARY 31, 2005

Mr. HARKIN (for himself, Mr. SPECTER, Mr. KENNEDY, Mr. KERRY, Mr. LEVIN, Mr. DAYTON, Mrs. MURRAY, Ms. STABENOW, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. DODD, Mr. LEAHY, Mr. ROCKEFELLER, and Mr. SARBANES) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Fair Labor Standards Act of 1938 to repeal any weakening of overtime protections and to avoid future loss of overtime protections due to inflation.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Overtime Rights Pro-
5 tection Act”.

1 **SEC. 2. AMENDMENT TO THE FAIR LABOR STANDARDS ACT**
2 **OF 1938.**

3 Section 13 of the Fair Labor Standards Act of 1938
4 (29 U.S.C. 213) is amended by adding at the end the fol-
5 lowing:

6 “(k)(1) Notwithstanding the provisions of subchapter
7 II of chapter 5 and chapter 7 of title 5, United States
8 Code (commonly referred to as the Administrative Proce-
9 dures Act) or any other provision of law, any portion of
10 the final rule promulgated on April 23, 2004, revising part
11 541 of title 29, Code of Federal Regulations, that exempts
12 from the overtime pay provision of section 7 of this Act
13 any employee who would not otherwise be exempt if the
14 regulations in effect on March 31, 2003 remained in ef-
15 fect, shall have no force or effect and that portion of such
16 regulations (as in effect on March 31, 2003) that would
17 prevent such employee from being exempt shall be rein-
18 stated.

19 “(2) The Secretary shall adjust the minimum salary
20 level for exemption under section 13(a)(1) in the following
21 manner:

22 “(A) Not later than 60 days after the date of
23 enactment of this subsection, the Secretary shall in-
24 crease the minimum salary level for exemption under
25 subsection (a)(1) for executive, administrative, and
26 managerial occupations from the level of \$155 per

1 week in 1975 to \$591 per week (an amount equal
2 to the increase in the Employment Cost Index (pub-
3 lished by the Bureau of Labor Statistics) for execu-
4 tive, administrative, and managerial occupations be-
5 tween 1975 and 2005).

6 “(B) Not later than December 31 of the cal-
7 endar year following the increase required in sub-
8 paragraph (A), and each December 31 thereafter,
9 the Secretary shall increase the minimum salary
10 level for exemption under subsection (a)(1) by an
11 amount equal to the increase in the Employment
12 Cost Index for executive, administrative, and mana-
13 gerial occupations for the year involved.”.

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