

# Looming deadline: Small businesses prep for overtime rules

By JOYCE M. ROSENBERG Oct. 26, 2016 11:29 AM EDT



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In this Friday, Oct. 21, 2016, photo, Ken Wertz, president of Wilkinson Supply, poses for a picture... [Read more](#)

NEW YORK (AP) — Small business owners are rushing to get their companies — in particular their employees — ready for an upcoming change in overtime rules.

With federal regulations that are expected to affect the paychecks of 4.2 million workers going into effect Dec. 1, human resources consultants say they're seeing a surge in calls from owners seeking help in complying. Many business owners have procrastinated, hoping Congress might put the regulations on hold or a federal court would take a similar step in response to a lawsuit filed by a coalition of 21 states. But with five weeks to go, there's no indication owners will get a reprieve.

"We're telling clients, 'You need to get your act together. This is happening,'" says Rob Wilson, president of Employco, an HR provider based in Westmont, Illinois.

Chris Williams, a Travelers executive whose job includes educating business owners about labor law compliance, recently encountered proprietors at a human resources meeting who didn't know the law was changing.

"The question was raised of the audience, 'How many of you are ready for this rule?' Only about 50 percent raised their hands," Williams says.

The regulations about double to \$913 a week from \$455 the threshold under which salaried workers must be paid overtime. The higher level is intended to offset inflation, which has eroded the old limits. In annual pay terms, it rises to \$47,476 from \$23,660. But there won't be a blanket increase for all workers whose pay falls below the new threshold — federal regulations specifically exempt some employees like computer programmers and office workers from having to be paid overtime. Many employees who will become eligible for overtime work in restaurants or retail as managers or supervisors.

Owners are looking for ways to comply with the law without seeing their labor costs soar. Some with employees whose salaries

are close to the \$47,476 threshold may give them small raises to keep them exempt. Others may switch salaried staffers to hourly pay and keep a close eye on their schedules to avoid running up big overtime bills. In many workplaces, owners may redistribute some tasks so no one has to stay past the end of a shift.

The regulations will affect the pay of 17 employees at Wilkinson Supply, a Raleigh, North Carolina-based company that sells plumbing, kitchen and bathroom fixtures and decorative items. Five employees whose salaries are close to the new threshold have gotten raises, president Ken Wertz says. Twelve are being switched to hourly pay, with their schedules staggered so the company showroom will be staffed throughout the day.

Wertz realizes there will be times when he won't be able to avoid paying overtime.

"If you're working with a customer and you go over (the end of your shift), obviously you can't stop working with a customer," he says.

But because Wilkinson has competition, the company can't pass those overtime costs on to customers.

The regulations are creating a juggling act for some owners who need to contain costs and also maintain morale. Some employees, particularly those on a management track, may feel like they're getting a demotion if they are paid by the hour.

Owners need to speak openly with employees about the regulations and the impact they'll have on everyone — the workers and the company, Employco's Wilson says. They need to let staffers know they have to comply with the law and also keep companies healthy.

"Employees are going to be mad at the owner or supervisor, not the government," Wilson says. "There needs to be education about what the law is."

Owners can get a grounding in the law from the Labor Department's website, Williams says.

Franchise companies are trying to help their franchisees with the transition.

The Fazoli's restaurant chain has been sharing information with owners of its 91 franchise locations about how it will change staffing at its 123 corporate stores, CEO Carl Howard says. The Lexington, Kentucky-based company plans to keep the general managers who oversee a restaurant's operations exempt by giving them raises. But other managers will have to go on hourly pay.

The restaurants are likely to run up some overtime when there are vacations, illnesses and bad weather, Howard says.

"It's the cost of doing business," he says.

In about 20 states, owners are also facing likely increases in the minimum wage at the start of 2017.

Stephen Fofanoff, who co-owns the Jig and Lure Fish Co. restaurant in Port Angeles, Washington, has to factor that into his employees' compensation when the overtime rules take effect. The state's minimum wage is \$9.47 an hour, but voters will consider a ballot measure next month that could raise it to \$13.50 by 2020. Even without the vote, the minimum wage may rise along with inflation under a 1998 ballot measure.

"We're definitely having to rethink compensation from the ground up to meet the new legal requirements," Fofanoff says.

The restaurant's staff of 18 has two managers who will receive raises to keep them exempt. Other staffers often work more than 40 hours a week, and they're likely to see their duties change to keep a lid on overtime, Fofanoff says. He and co-owner Christopher Warnock are considering profit-sharing as a way to motivate and reward his staff.

"Our thinking is to reward our employees as much as we can when the business is profitable, provide a safety net for them that stays within our payroll budget when sales are lower, and meet the requirements of the law," Fofanoff says.

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