

- Sec.  
3707. Contractor certification or contract clause in acquisition of commercial items not required.  
3708. Criminal penalties.

Pub. L. 111-350, §5(l)(19), Jan. 4, 2011, 124 Stat. 3852.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3701(a) .....	(no source).	
3701(b)(1) ....	40:329(a) (1st sentence less proviso).	Pub. L. 87-581, title I, §103(a), (b), Aug. 13, 1962, 76 Stat. 358.
3701(b)(2) ....	40:329(a) (last sentence).	
3701(b)(3) (A)(i), (ii).	40:329(b).	
3701(b)(3) (A)(iii).	40:329(c).	Pub. L. 87-581, title I, §103(c), as added Pub. L. 103-355, title IV, §4104(c)(1), Oct. 13, 1994, 108 Stat. 3342.
3701(b)(3)(B)	40:329(a) (1st sentence proviso).	

§ 3701. Definition and application

(a) DEFINITION.—In this chapter, the term “Federal Government” has the same meaning that the term “United States” had in the Contract Work Hours and Safety Standards Act (Public Law 87-581, 76 Stat. 357).

(b) APPLICATION.—

(1) CONTRACTS.—This chapter applies to—

(A) any contract that may require or involve the employment of laborers or mechanics on a public work of the Federal Government, a territory of the United States, or the District of Columbia; and

(B) any other contract that may require or involve the employment of laborers or mechanics if the contract is one—

(i) to which the Government, an agency or instrumentality of the Government, a territory, or the District of Columbia is a party;

(ii) which is made for or on behalf of the Government, an agency or instrumentality, a territory, or the District of Columbia; or

(iii) which is a contract for work financed at least in part by loans or grants from, or loans insured or guaranteed by, the Government or an agency or instrumentality under any federal law providing wage standards for the work.

(2) LABORERS AND MECHANICS.—This chapter applies to all laborers and mechanics employed by a contractor or subcontractor in the performance of any part of the work under the contract—

(A) including watchmen, guards, and workers performing services in connection with dredging or rock excavation in any river or harbor of the United States, a territory, or the District of Columbia; but

(B) not including an employee employed as a seaman.

(3) EXCEPTIONS.—

(A) THIS CHAPTER.—This chapter does not apply to—

(i) a contract for—

(I) transportation by land, air, or water;

(II) the transmission of intelligence; or

(III) the purchase of supplies or materials or articles ordinarily available in the open market;

(ii) any work required to be done in accordance with the provisions of chapter 65 of title 41; and

(iii) a contract in an amount that is not greater than \$100,000.

(B) SECTION 3702.—Section 3702 of this title does not apply to work where the assistance described in paragraph (1)(B)(iii) from the Government or an agency or instrumentality is only a loan guarantee or insurance.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1169; Pub. L. 109-284, §6(14), Sept. 27, 2006, 120 Stat. 1213;

Subsection (a) is added for clarity.

In subsection (b)(1), before clause (A), the words “except as otherwise provided” are omitted as unnecessary.

In subsection (b)(2), before clause (A), the words “Except as otherwise expressly provided” are omitted as unnecessary.

In subsection (b)(3)(A)(ii), the words “Walsh-Healey Act” are substituted for “[“]Walsh-Healey Public Contracts Act” to use the correct short title of the Act.

REFERENCES IN TEXT

The Contract Work Hours and Safety Standards Act, referred to in subsec. (a), is title I of Pub. L. 87-581, Aug. 13, 1962, 76 Stat. 357, as amended, which was classified generally to subchapter II (§327 et seq.) of chapter 5 of former Title 40, Public Buildings, Property, and Works, prior to repeal and reenactment as this chapter by Pub. L. 107-217, §§1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304. Section 101 of title I of Pub. L. 87-581 was classified to section 327 of former Title 40 and was repealed and not reenacted by Pub. L. 107-217. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2011—Subsec. (b)(3)(A)(ii). Pub. L. 111-350 substituted “chapter 65 of title 41” for “the Walsh-Healey Act (41 U.S.C. 35 et seq.)”.

2006—Subsec. (b)(3)(B). Pub. L. 109-284 substituted “3702” for “3902” in heading and text and “paragraph (1)(B)(iii)” for “subsection (a)(2)(C)” in text.

§ 3702. Work hours

(a) STANDARD WORKWEEK.—The wages of every laborer and mechanic employed by any contractor or subcontractor in the performance of work on a contract described in section 3701 of this title shall be computed on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permitted subject to this section. For each workweek in which the laborer or mechanic is so employed, wages include compensation, at a rate not less than one and one-half times the basic rate of pay, for all hours worked in excess of 40 hours in the workweek.

(b) CONTRACT REQUIREMENTS.—A contract described in section 3701 of this title, and any obligation of the Federal Government, a territory of the United States, or the District of Columbia in connection with that contract, must provide that—

(1) a contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall not require or permit any laborer or mechanic, in any workweek

in which the laborer or mechanic is employed on that work, to work more than 40 hours in that workweek, except as provided in this chapter; and

(2) when a violation of clause (1) occurs, the contractor and any subcontractor responsible for the violation are liable—

(A) to the affected employee for the employee's unpaid wages; and

(B) to the Government, the District of Columbia, or a territory for liquidated damages as provided in the contract.

(c) LIQUIDATED DAMAGES.—Liquidated damages under subsection (b)(2)(B) shall be computed for each individual employed as a laborer or mechanic in violation of this chapter and shall be equal to \$10 for each calendar day on which the individual was required or permitted to work in excess of the standard workweek without payment of the overtime wages required by this chapter.

(d) AMOUNTS WITHHELD TO SATISFY LIABILITIES.—Subject to section 3703 of this title, the governmental agency for which the contract work is done or which is providing financial assistance for the work may withhold, or have withheld, from money payable because of work performed by a contractor or subcontractor, amounts administratively determined to be necessary to satisfy the liabilities of the contractor or subcontractor for unpaid wages and liquidated damages as provided in this section.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1169; Pub. L. 109–284, § 6(15), Sept. 27, 2006, 120 Stat. 1213.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
3702(a) .....	40:328(a).	Pub. L. 87–581, title I, §102, Aug. 13, 1962, 76 Stat. 357; Pub. L. 99–145, title XII, §1241(a), Nov. 8, 1985, 99 Stat. 734.
3702(b) .....	40:328(b) (words before (1)), (1), (2) (1st sentence).	
3702(c) .....	40:328(b)(2) (2d sentence).	
3702(d) .....	40:328(b)(2) (last sentence).	

In subsection (a), the words “Notwithstanding any other provision of law” are omitted as unnecessary.

AMENDMENTS

2006—Subsec. (d). Pub. L. 109–284 substituted “To” for “to” in heading.

**§ 3703. Report of violations and withholding of amounts for unpaid wages and liquidated damages**

(a) REPORTS OF INSPECTORS.—An officer or individual designated as an inspector of the work to be performed under a contract described in section 3701 of this title, or to aid in the enforcement or fulfillment of the contract, on observation or after investigation immediately shall report to the proper officer of the Federal Government, a territory of the United States, or the District of Columbia all violations of this chapter occurring in the performance of the work, together with the name of each laborer or mechanic who was required or permitted to work in violation of this chapter and the day the violation occurred.

(b) WITHHOLDING AMOUNTS.—

(1) DETERMINING AMOUNT.—The amount of unpaid wages and liquidated damages owing under this chapter shall be determined administratively.

(2) AMOUNT DIRECTED TO BE WITHHELD.—The officer or individual whose duty it is to approve the payment of money by the Government, territory, or District of Columbia in connection with the performance of the contract work shall direct the amount of—

(A) liquidated damages to be withheld for the use and benefit of the Government, territory, or District; and

(B) unpaid wages to be withheld for the use and benefit of the laborers and mechanics who were not compensated as required under this chapter.

(3) PAYMENT.—The Secretary of Labor shall pay the amount administratively determined to be due directly to the laborers and mechanics from amounts withheld on account of underpayments of wages if the amount withheld is adequate. If the amount withheld is not adequate, the Secretary of Labor shall pay an equitable proportion of the amount due.

(c) RIGHT OF ACTION AND INTERVENTION AGAINST CONTRACTORS AND SURETIES.—If the accrued payments withheld under the terms of the contract are insufficient to reimburse all the laborers and mechanics who have not been paid the wages required under this chapter, the laborers and mechanics, in the case of a department or agency of the Government, have the same right of action and intervention against the contractor and the contractor's sureties as is conferred by law on persons furnishing labor or materials. In those proceedings it is not a defense that the laborers and mechanics accepted or agreed to accept less than the required rate of wages or voluntarily made refunds.

(d) REVIEW PROCESS.—

(1) TIME LIMIT FOR APPEAL.—Within 60 days after an amount is withheld as liquidated damages, any contractor or subcontractor aggrieved by the withholding may appeal to the head of the agency of the Government or territory for which the contract work is done or which is providing financial assistance for the work, or to the Mayor of the District of Columbia in the case of liquidated damages withheld for the use and benefit of the District.

(2) REVIEW BY AGENCY HEAD OR MAYOR.—The agency head or Mayor may review the administrative determination of liquidated damages. The agency head or Mayor may issue a final order affirming the determination or may recommend to the Secretary of Labor that an appropriate adjustment in liquidated damages be made, or that the contractor or subcontractor be relieved of liability for the liquidated damages, if it is found that the amount is incorrect or that the contractor or subcontractor violated this chapter inadvertently, notwithstanding the exercise of due care by the contractor or subcontractor and the agents of the contractor or subcontractor.

(3) REVIEW BY SECRETARY.—The Secretary shall review all pertinent facts in the matter and may conduct any investigation the Sec-