

§ 5549. Effect on other statutes

This subchapter does not prevent payment for overtime services or for Sunday or holiday work under any of the following statutes—

- (1) section 10703 of the Farm Security and Rural Investment Act of 2002;
- (2) sections 1353a and 1353b of title 8;
- (3) sections 261,¹ 267, 1450, 1451, 1451a,¹ and 1452 of title 19;
- (4) sections 2111 and 2112 of title 46; and
- (5) section 154(f)(3) of title 47.

However, an employee may not receive premium pay under this subchapter for the same services for which he is paid under one of these statutes.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 488; Pub. L. 98–89, §3(a), Aug. 26, 1983, 97 Stat. 599; Pub. L. 107–171, title X, §10703(c)(4), May 13, 2002, 116 Stat. 518.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 941.	June 30, 1945, ch. 212, §601, 59 Stat. 302.

In paragraph (2), the words “sections 1353a and 1353b of title 8” are substituted for “sections 342c and 342d of this title” to reflect the scheduled transfer of those sections to title 8.

In paragraph (5), the words “section 154(f)(3) of title 47” are substituted for “section 154(f)(2) of title 47” on authority of the Act of July 16, 1952, ch. 879, §3(b), 66 Stat. 711, which redesignated subsection (f)(2) as (f)(3).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Editorial Notes

REFERENCES IN TEXT

Section 10703 of the Farm Security and Rural Investment Act of 2002, referred to in par. (1), is section 10703 of Pub. L. 107–171, which enacted section 2219a of Title 7, Agriculture, amended this section and sections 468 and 695 of Title 21, Food and Drugs, and repealed section 394 of Title 7.

Section 261 of title 19, referred to in par. (3), was omitted from the Code in the general revision of section 5 of act Feb. 13, 1911, ch. 46, by Pub. L. 103–66, title XIII, §13811(a), Aug. 10, 1993, 107 Stat. 668.

Section 1451a of title 19, referred to in par. (3), was repealed by Pub. L. 103–66, title XIII, §13811(b)(1), Aug. 10, 1993, 107 Stat. 670.

AMENDMENTS

2002—Par. (1). Pub. L. 107–171 added par. (1) and struck out former par. (1) which read as follows: “section 394 of title 7;”.

1983—Par. (4). Pub. L. 98–89 substituted “sections 2111 and 2112 of title 46” for “section 382b of title 46”.

§ 5550. Border patrol rate of pay

(a) DEFINITIONS.—In this section—

(1) the term “basic border patrol rate of pay” means the hourly rate of basic pay of the applicable border patrol, as determined without regard to this section;

(2) the term “border patrol agent” means an individual who is appointed to a position assigned to the Border Patrol Enforcement clas-

sification series 1896 or any successor series, consistent with classification standards established by the Office of Personnel Management;

(3) the term “level 1 border patrol rate of pay” means the hourly rate of pay equal to 1.25 times the otherwise applicable hourly rate of basic pay of the applicable border patrol agent;

(4) the term “level 2 border patrol rate of pay” means the hourly rate of pay equal to 1.125 times the otherwise applicable hourly rate of basic pay of the applicable border patrol agent; and

(5) the term “work period” means a 14-day biweekly pay period.

(b) RECEIPT OF BORDER PATROL RATE OF PAY.—

(1) VOLUNTARY ELECTION.—

(A) IN GENERAL.—Not later than 30 days before the first day of each year beginning after the date of enactment of this section, a border patrol agent shall make an election whether the border patrol agent shall, for that year, be assigned to—

- (i) the level 1 border patrol rate of pay;
- (ii) the level 2 border patrol rate of pay;

or

(iii) the basic border patrol rate of pay, with additional overtime assigned as needed by U.S. Customs and Border Protection.

(B) REGULATIONS.—The Director of the Office of Personnel Management shall promulgate regulations establishing procedures for elections under subparagraph (A).

(C) INFORMATION REGARDING ELECTION.—Not later than 60 days before the first day of each year beginning after the date of enactment of this section, U.S. Customs and Border Protection shall provide each border patrol agent with information regarding each type of election available under subparagraph (A) and how to make such an election.

(D) ASSIGNMENT IN LIEU OF ELECTION.—Notwithstanding subparagraph (A)—

(i) a border patrol agent who fails to make a timely election under subparagraph (A) shall be assigned to the level 1 border patrol rate of pay;

(ii) a border patrol agent who is assigned a canine shall be assigned to the level 1 border patrol rate of pay;

(iii) if at any time U.S. Customs and Border Protection concludes that a border patrol agent is unable to perform overtime on a daily basis in accordance with this section, U.S. Customs and Border Protection shall assign the border patrol agent to the basic border patrol rate of pay until such time as U.S. Customs and Border Protection determines that the border patrol agent is able to perform scheduled overtime on a daily basis;

(iv) unless the analysis conducted under section 2(e) of the Border Patrol Agent Pay Reform Act of 2014 indicates that, in order to more adequately fulfill the operational requirements of U.S. Customs and Border Protection, such border patrol agents should be allowed to elect or be assigned to the level 1 border patrol rate of pay or the level 2 border patrol rate of pay,

¹ See References in Text note below.