

105TH CONGRESS
2D SESSION

H. R. 2888

IN THE SENATE OF THE UNITED STATES

JUNE 16, 1998

Received; read twice and referred to the Committee on Labor and Human
Resources

AN ACT

To amend the Fair Labor Standards Act of 1938 to exempt
from the minimum wage recordkeeping and overtime
compensation requirements certain specialized employees.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Sales Incentive Com-
3 pensation Act”.

4 **SEC. 2. EXEMPTION.**

5 Section 13(a) of the Fair Labor Standards Act of
6 1938 (29 U.S.C. 213(a)) is amended by striking the pe-
7 riod at the end of paragraph (17) and inserting a semi-
8 colon and by adding at the end the following:

9 “(18) any employee employed in a sales position
10 if—

11 “(A) the employee has specialized or tech-
12 nical knowledge related to products or services
13 being sold;

14 “(B) the employee’s—

15 “(i) sales are predominantly to per-
16 sons or entities to whom the employee’s
17 position has made previous sales; or

18 “(ii) the position does not involve ini-
19 tiating sales contacts;

20 “(C) the employee has a detailed under-
21 standing of the needs of those to whom the em-
22 ployee is selling;

23 “(D) the employee exercises discretion in
24 offering a variety of products and services;

25 “(E) the employee receives—

1 “(i) base compensation, determined
2 without regard to the number of hours
3 worked by the employee, of not less than
4 an amount equal to one and one-half times
5 the minimum wage in effect under section
6 6(a)(1) multiplied by 2,080; and

7 “(ii) in addition to the employee’s
8 base compensation, compensation based
9 upon each sale attributable to the em-
10 ployee;

11 “(F) the employee’s aggregate compensa-
12 tion based upon sales attributable to the em-
13 ployee is not less than 40 percent of one and
14 one-half times the minimum wage multiplied by
15 2,080;

16 “(G) the employee receives a rate of com-
17 pensation based upon each sale attributable to
18 the employee which is beyond sales required to
19 reach the compensation required by subpara-
20 graph (F) which rate is not less than the rate
21 on which the compensation required by sub-
22 paragraph (F) is determined; and

23 “(H) the rate of annual compensation or
24 base compensation for any employee who did
25 not work for an employer for an entire calendar

1 year is prorated to reflect annual compensation
2 which would have been earned if the employee
3 had been compensated at the same rate for the
4 entire calendar year.”.

5 **SEC. 3. CONSTRUCTION.**

6 The amendment made by section 2 may not be con-
7 strued to apply to individuals who are employed as route
8 sales drivers.

Passed the House of Representatives June 11, 1998.

Attest:

ROBIN H. CARLE,

Clerk.