

106TH CONGRESS
1ST SESSION

H. R. 1302

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 25, 1999

Mr. BOEHNER (for himself and Mr. ANDREWS) introduced the following bill;
which was referred to the Committee on Education and the Workforce

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Sales Incentive Com-
5 pensation Act”.

6 **SEC. 2. EXEMPTION.**

7 Section 13(a) of the Fair Labor Standards Act of
8 1938 (29 U.S.C. 213(a)) is amended by striking the pe-

1 riod at the end of paragraph (17) and inserting a semi-
2 colon and by adding at the end the following:

3 “(18) any employee employed in a sales position
4 if—

5 “(A) the employee has specialized or tech-
6 nical knowledge related to products or services
7 being sold;

8 “(B) the employee’s—

9 “(i) sales are predominantly to per-
10 sons or entities to whom the employee’s
11 position has made previous sales; or

12 “(ii) position does not involve initi-
13 ating sales contacts;

14 “(C) the employee has a detailed under-
15 standing of the needs of those to whom the em-
16 ployee is selling;

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

19 “(E) the employee receives—

20 “(i) base compensation, determined
21 without regard to the number of hours
22 worked by the employee, of not less than
23 an amount equal to one and one-half times
24 the minimum wage in effect under section
25 6(a)(1) multiplied by 2,080; and

1 “(ii) in addition to the employee’s
2 base compensation, compensation based
3 upon each sale attributable to the em-
4 ployee;

5 “(F) the employee’s aggregate compensa-
6 tion based upon sales attributable to the em-
7 ployee is not less than 40 percent of one and
8 one-half times the minimum wage multiplied by
9 2,080;

10 “(G) the employee receives a rate of com-
11 pensation based upon each sale attributable to
12 the employee which is beyond sales required to
13 reach the compensation required by subpara-
14 graph (F) which rate is not less than the rate
15 on which the compensation required by sub-
16 paragraph (F) is determined; and

17 “(H) the rate of annual compensation or
18 base compensation for any employee who did
19 not work for an employer for an entire calendar
20 year is prorated to reflect annual compensation
21 which would have been earned if the employee
22 had been compensated at the same rate for the
23 entire calendar year.”.

1 **SEC. 3. CONSTRUCTION.**

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

