

108TH CONGRESS
1ST SESSION

S. 237

To amend the Fair Labor Standards Act of 1938 to clarify the exemption from the minimum wage and overtime compensation requirements of that Act for certain construction engineering and design professionals.

IN THE SENATE OF THE UNITED STATES

JANUARY 29, 2003

Mr. GRAHAM of South Carolina introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Fair Labor Standards Act of 1938 to clarify the exemption from the minimum wage and overtime compensation requirements of that Act for certain construction engineering and design professionals.

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. FAIR LABOR STANDARDS ACT OF 1938.**

4 Section 13(a) of the Fair Labor Standards Act of
5 1938 (29 U.S.C. 213(a)) is amended—

6 (1) in paragraph (17), by striking the period at
7 the end and inserting “; or”; and

8 (2) by adding at the end the following:

1 “(18) any employee providing professional con-
2 sulting services recognized by a 4-year degree or
3 greater, professional licensure, professional certifi-
4 cation, or at least 8 years of similar work experi-
5 ence, if—

6 “(A) the employee’s duties include—

7 “(i) interpretation and adherence to
8 design documents and applicable construc-
9 tion codes;

10 “(ii) supervision during a project;

11 “(iii) interpretation of contract re-
12 quirements through analysis of specifica-
13 tions and drawings;

14 “(iv) the application of a variety of
15 testing and inspection techniques;

16 “(v) implementation of research meth-
17 ods;

18 “(vi) supervision of the inspection of
19 materials and workmanship; or

20 “(vii) the interpretation of engineering
21 principles and national, State, and local
22 construction code requirements or of estab-
23 lished codes (such as the Uniform Building
24 Code) set by nationally recognized stand-
25 ard-setting organizations (such as the

1 International Conference of Building Offi-
2 cials); and

3 “(B) the employee’s services relate to the
4 preliminary or conceptual design and develop-
5 ment, design, bidding, construction, and
6 postconstruction evaluation phases of engineer-
7 ing, architecture, landscape architecture, land
8 and hydrographic surveying, land use planning,
9 natural, environmental, and earth sciences, and
10 construction technology.”.

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