

**(2) No effect on title 49 preemption**

This section shall have no effect on the preemption of a State law or municipal ordinance that is preempted under subtitle IV, V, or VII of title 49.

(June 25, 1938, ch. 676, §18D, as added Pub. L. 117-328, div. KK, §102(a)(2), Dec. 29, 2022, 136 Stat. 6093.)

**Editorial Notes**

## REFERENCES IN TEXT

The Motorcoach Enhanced Safety Act of 2012, referred to in subsec. (f)(4)(A), is subtitle G of title II of div. C of Pub. L. 112-141, which is set out as a note under section 31136 of Title 49, Transportation.

## PRIOR PROVISIONS

Provisions similar to those in subsections (a) to (c) of this section were contained in section 207(r) of this title prior to repeal by Pub. L. 117-328, §102(a)(1).

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE

Section effective on Dec. 29, 2022, see section 103(a) of div. KK of Pub. L. 117-328, set out as an Effective Date of 2022 Amendment note under section 207 of this title.

## DELAYED APPLICATION OF LAW TO EMPLOYEES OF RAIL CARRIERS

Pub. L. 117-328, div. KK, §103(d), Dec. 29, 2022, 136 Stat. 6096, provided that:

“(1) IN GENERAL.—Section 18D of the Fair Labor Standards Act of 1938 [29 U.S.C. 218d] (as added by section 102(a)) shall not apply to employees who are members of a train crew involved in the movement of a locomotive or rolling stock or who are employees who maintain the right of way of an employer that is a rail carrier until the date that is 3 years after the date of enactment of this Act [Dec. 29, 2022].

“(2) DEFINITIONS.—In this subsection:

“(A) EMPLOYEE; EMPLOYER.—The terms ‘employee’ and ‘employer’ have the meanings given such terms in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

“(B) EMPLOYEES [sic] WHO MAINTAINS THE RIGHT OF WAY; RAIL CARRIER; TRAIN CREW.—The terms ‘employee who maintains the right of way’, ‘rail carrier’, and ‘train crew’ have the meanings given such terms in section 18D(e)(4) of the Fair Labor Standards Act of 1938 [29 U.S.C. 218d(e)(4)], as added by section 102(a).”

## DELAYED APPLICATION OF LAW TO EMPLOYEES OF MOTORCOACH SERVICES OPERATORS

Pub. L. 117-328, div. KK, §103(e), Dec. 29, 2022, 136 Stat. 6097, provided that:

“(1) IN GENERAL.—Section 18D of the Fair Labor Standards Act of 1938 [29 U.S.C. 218d] (as added by section 102(a)) shall not apply to employees who are involved in the movement of a motorcoach of an employer that is a motorcoach services operator until the date that is 3 years after the date of enactment of this Act [Dec. 29, 2022].

“(2) DEFINITIONS.—In this subsection:

“(A) EMPLOYEE; EMPLOYER.—The terms ‘employee’ and ‘employer’ have the meanings given such terms in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

“(B) MOTORCOACH; MOTORCOACH SERVICES OPERATOR.—The terms ‘motorcoach’ and ‘motorcoach services operator’ have the meanings given such terms in section 18D(f)(4) of the Fair Labor Standards Act of 1938 [29 U.S.C. 218d(f)(4)], as added by section 102(a).”

**§ 219. Separability**

If any provision of this chapter or the application of such provision to any person or circumstance is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

(June 25, 1938, ch. 676, § 19, 52 Stat. 1069.)

**CHAPTER 9—PORTAL-TO-PORTAL PAY**

## Sec.

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**§ 251. Congressional findings and declaration of policy**

(a) The Congress finds that the Fair Labor Standards Act of 1938, as amended [29 U.S.C. 201 et seq.], has been interpreted judicially in disregard of long-established customs, practices, and contracts between employers and employees, thereby creating wholly unexpected liabilities, immense in amount and retroactive in operation, upon employers with the results that, if said Act as so interpreted or claims arising under such interpretations were permitted to stand, (1) the payment of such liabilities would bring about financial ruin of many employers and seriously impair the capital resources of many others, thereby resulting in the reduction of industrial operations, halting of expansion and development, curtailing employment, and the earning power of employees; (2) the credit of many employers would be seriously impaired; (3) there would be created both an extended and continuous uncertainty on the part of industry, both employer and employee, as to the financial condition of productive establishments and a gross inequality of competitive conditions between employers and between industries; (4) employees would receive windfall payments, including liquidated damages, of sums for activities performed by them without any expectation of reward beyond that included in their agreed rates of pay; (5) there would occur the promotion of increasing demands for payment to employees for engaging in activities no compensation for which had been contemplated by either the employer or employee at the time they were engaged in; (6) voluntary collective