



TESTIMONY
of
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before the
Small Business Committee
U.S. House of Representatives

How The Department of Labor Overtime Rule Impacts
Technology Startups and High-Growth Small Businesses

June 23, 2016

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Thank you Chairman Chabot and Ranking Member Velázquez and Members of the Committee for the opportunity to testify about the impact of the Department of Labor's new overtime rule. This rule requires employers to provide overtime pay to employees whose salary is less than \$47,500, which is about double the existing threshold.

What I want to do in my time today is focus on how this rule will adversely affect technology startups and high-growth small business owners like me, and what that means for the people we employ.

I am the CEO and co-founder of a human resources technology business called Hireology. We have streamlined and improved the hiring process to help companies eliminate bad hires and identify good ones. We have also fielded hundreds of confused inquiries from our customers about how to comply with this rule. As a result we have a unique perspective to speak about its impact.

Like most federal regulations, the overtime rule is a one-size-fits-all policy that doesn't distinguish among firm size, sector, location, or compensation structure. This means that companies that don't fit the Department of Labor's outdated model will be disproportionately hurt by the rule.

Take the capital-constrained technology startup sector that I work in, for example. Employees at these companies trade long hours and lower pay for the opportunity to get amazing professional experience early in their careers, and the potential for a significant financial windfall later on.

Are we exploiting our employees? Of course not. Those working at tech startups voluntarily recognize that their positions are high-risk, high-reward ventures, and that they may have to go years with below-market pay to get a big payout in the end. Do we want to regulate these opportunities out of existence?

Looking back on when I started my company in 2010, I can tell you with 100% certainty that I would have not been able to hire my first employee had this rule been in place. My company now has 100 employees with a median annual compensation that exceeds \$70,000 a year - well above the US average. How many "Hireology's" won't get started as a result of this rule making that 1st employee unaffordable for an entrepreneur? Are fewer good-paying jobs created and fewer businesses launched the outcomes that are desired here?

Sales professionals - the lifeblood of almost every company - also suffer from this rule because their commission-based compensation structure doesn't align with the Department of Labor's vision of the workplace. Consider what my company is facing: Forty of our 100 full-time salaried professionals are salespeople, whose success—like with most sales positions—depends on persistence. That means working until the sale is made, whatever the hours.

We pay new salespeople a base salary of \$40,000, and those who hit their quota can earn \$70,000 to \$120,000 a year. This compensation structure is typical in the technology and sales sectors because it allows employees to directly share in the profits they produce for the company.

However, the overtime rule forces us to choose between raising base salaries to the new exempt threshold or converting everyone on the sales team to an hourly rate, capping hours at 40 per week.

Both alternatives are unattractive. A 20 percent pay increase for new hires to put them above the threshold would hamstring our expansion plans. But, capping hours at 40 per week would mean a loss of earning potential for our salespeople, and add costly time tracking overhead to our bottom line. Both paths result in less opportunity and fewer middle-class jobs.

To the extent that employers like me are forced to reclassify employees as hourly to avoid unexpected overtime costs, these high-paying job opportunities will be reduced. Millions of Americans have entered the middle-class by securing a salaried job then working their way up by working until the job gets done.

That means sometimes—during a busy season, a financial month-end, or when a coworker is out sick—working longer than eight hours in a day. In return, these employees are rewarded with the flexibility, benefits, bonuses, status, and promotions that come with a salaried position. It's not exploitative. It's a key tenant of American work culture.

Reduced middle-class job opportunities as a result of this rule will be compounded in parts of the country with lower standards of living. Companies in Chattanooga will have a much more difficult time complying with a \$47,500 salary threshold than companies in Chicago. As a result, the rule will be another hurdle for smaller communities across the country that are still suffering from high unemployment and a lack of middle-class job opportunities.

I urge you to pursue legislative solutions to undo the harm that will be inflicted by this overtime rule. At a time when the middle-class in this country is already being squeezed, the tech sector, sales jobs, and middle-management positions are a few areas that still provide relief. The overtime rule threatens to close those career pathways that have been paved by hard work.

Thank you for your time today. I'm happy to take any questions.