



June 23, 2016

The Honorable Steve J. Chabot
Chairman
Committee on Small Business
U.S. House of Representatives
Washington, DC 20515

The Honorable Nydia Velazquez
Ranking Member
Committee on Small Business
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Chabot and Ranking Member Velazquez:

On behalf of the members of the National Retail Federation (NRF), thank you for holding this very timely hearing on the Department of Labor's (DOL) changes to federal overtime rules. The Department's misguided and extreme time card rule will have far-reaching consequences for retail employees and employers across the country, and we appreciate your attention to this critical issue.

NRF is the world's largest retail trade association, representing discount and department stores, home goods and specialty stores, Main Street merchants, grocers, wholesalers, chain restaurants and Internet retailers from the United States and more than 45 countries. Retail is the nation's largest private sector employer, supporting one in four U.S. jobs – 42 million working Americans. Contributing \$2.6 trillion to annual GDP, retail is a daily barometer for the nation's economy.

While the President instructed DOL to modernize the nation's overtime regulations, the Department's changes are excessive and will result in the demotion of countless professional and executive employees across the country. The final rule drastically increases the minimum salary level required for exemption to \$47,476 in 2016 and includes an unprecedented automatic increase to the threshold every three years thereafter. This more than 100 percent increase in the salary threshold is simply too much, too fast and will disproportionately impact lower wage industries and lower cost regions of the country. Notably, according to DOL's calculations in the final rule, the South composes 41 percent of all affected workers.

Retailers agree with nonprofit organizations, higher education institutions, municipal and county governments, and other employers that overtime eligibility will not suddenly lead to overtime pay. Instead, by direction of the Labor Department, we will be forced align our workforce to limit overtime pay in ways that undermine career opportunities and better futures for both retail employees and retail companies. DOL is desperately trying to convince the public that its new overtime changes will not inflict much more harm than good, but its own analyses in the rule say otherwise.

A deeper dive into DOL's own estimates shows just how scant the benefits are and how significant the consequences are. According to DOL, at the new standard salary level, average weekly earnings for all affected workers are expected to increase by \$5.48 per week. However, four out of five of the 4.2 million impacted workers DOL and the administration consistently claim will receive a raise as a result of this rule, either never work more than 40 hours per week or only occasionally work

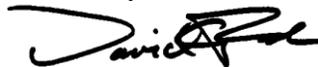
overtime. These workers will not experience an increase in pay but will receive a time card and lose valuable training opportunities, workplace flexibility, and benefits. For the 730,000 workers who regularly work overtime and will become overtime eligible, DOL estimates their regular hourly rate of pay will decrease by 5.3 percent on average and their hours will decrease by 0.8 percent.

To distract further from reality, proponents of this rule have touted the changes as a welcomed job creator. These claims are also riddled with partial truths. Supporters of the rule who celebrate studies predicting a potential increase in *part-time* jobs fail to acknowledge to the public that any increase in part-time jobs comes at the expense of full-time employees' hours and earnings. The creation of part-time jobs due to hiring freezes or layoffs of full-time employees is hardly something to celebrate.

However, despite the limited benefits and substantial negative impacts that accompany this rule, it is clear DOL was not willing to reconsider its changes in any meaningful way absent congressional action. Accordingly, NRF urges members of the Committee to support H.R. 4773, the Protecting Workplace Advancement and Opportunity Act. This commonsense legislation would provide an important pause in the rulemaking process and require DOL to complete comprehensive analyses of the impacts on small businesses and lower cost regions of the country. These are studies that DOL should have undertaken before issuing its final rule and on which the public deserves an opportunity to comment. In addition, H.R. 4773 would prohibit any future overtime rule from mandating automatic increases to the threshold.

Thank you once again for convening today's hearing and for the opportunity to submit a statement for the record. NRF appreciates the Committee's diligence in exercising oversight over this rulemaking and efforts to raise awareness among small businesses.

Sincerely,



David French
Senior Vice President
Government Relations

cc: Members of the House Small Business Committee