

105TH CONGRESS
2^D SESSION

H. R. 2888

AN ACT

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

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1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Sales Incentive Com-
3 pensation Act”.

4 **SEC. 2. EXEMPTION.**

5 Section 13(a) of the Fair Labor Standards Act of
6 1938 (29 U.S.C. 213(a)) is amended by striking the pe-
7 riod at the end of paragraph (17) and inserting a semi-
8 colon and by adding at the end the following:

9 “(18) any employee employed in a sales position
10 if—

11 “(A) the employee has specialized or tech-
12 nical knowledge related to products or services
13 being sold;

14 “(B) the employee’s—

15 “(i) sales are predominantly to per-
16 sons or entities to whom the employee’s
17 position has made previous sales; or

18 “(ii) the position does not involve ini-
19 tiating sales contacts;

20 “(C) the employee has a detailed under-
21 standing of the needs of those to whom the em-
22 ployee is selling;

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

25 “(E) the employee receives—

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

7 “(ii) in addition to the employee’s
8 base compensation, compensation based
9 upon each sale attributable to the em-
10 ployee;

11 “(F) the employee’s aggregate compensa-
12 tion based upon sales attributable to the em-
13 ployee is not less than 40 percent of one and
14 one-half times the minimum wage multiplied by
15 2,080;

16 “(G) the employee receives a rate of com-
17 pensation based upon each sale attributable to
18 the employee which is beyond sales required to
19 reach the compensation required by subpara-
20 graph (F) which rate is not less than the rate
21 on which the compensation required by sub-
22 paragraph (F) is determined; and

23 “(H) the rate of annual compensation or
24 base compensation for any employee who did
25 not work for an employer for an entire calendar

1 year is prorated to reflect annual compensation
2 which would have been earned if the employee
3 had been compensated at the same rate for the
4 entire calendar year.”.

5 **SEC. 3. CONSTRUCTION.**

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

 Passed the House of Representatives June 11, 1998.

Attest:

Clerk.