

119TH CONGRESS
2D SESSION

S.

To amend the Fair Labor Standards Act of 1938 to require employers to compensate employees working on a legal public holiday for such work at a rate that is not less than one and one-half times the regular rate at which the employee is employed, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. GALLEGUO introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Fair Labor Standards Act of 1938 to require employers to compensate employees working on a legal public holiday for such work at a rate that is not less than one and one-half times the regular rate at which the employee is employed, and for other purposes.

- 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. SHORT TITLE.**
- 4 This Act may be cited as the “Holiday Pay Act”.

1 **1 SEC. 2. RATE OF COMPENSATION FOR WORK PERFORMED**
2 **ON LEGAL PUBLIC HOLIDAYS.**

3 (a) IN GENERAL.—The Fair Labor Standards Act of
4 1938 (29 U.S.C. 201 et seq.) is amended—

5 (1) in section 3 (29 U.S.C. 203), by adding at
6 the end the following:

7 “(z) ‘Legal public holiday’ means any legal public hol-
8 iday specified in section 6103(a) of title 5, United States
9 Code.”; and

10 (2) by inserting after section 7 (29 U.S.C. 207)
11 the following:

12 **12 “SEC. 8. RATE OF COMPENSATION FOR WORK PERFORMED**
13 **ON LEGAL PUBLIC HOLIDAYS.**

14 “No employer shall employ an employee who in any
15 workweek is engaged in commerce or in the production
16 of goods for commerce, or is employed in an enterprise
17 engaged in commerce or in the production of goods for
18 commerce, for work performed on a legal public holiday
19 unless such employee receives compensation for such work
20 at a rate not less than one and one-half times the regular
21 rate (as determined under section 7(e)) at which the em-
22 ployee is employed.”.

23 (b) EXCLUSION FROM COMPENSATION CREDITABLE
24 TOWARDS OVERTIME COMPENSATION.—Section 7(h)(2)
25 of the Fair Labor Standards Act of 1938 (29 U.S.C.
26 207(h)(2)) is amended by inserting “(other than for work

1 performed on a legal public holiday as required under sec-
2 tion 8)” after “(6”).

3 (c) EXEMPTIONS.—Section 13(f) of the Fair Labor
4 Standards Act of 1938 (29 U.S.C. 213(f)) is amended by
5 striking “6, 7, 11, and 12” and inserting “6, 7, 8, 11,
6 and 12”.

7 (d) PROHIBITED ACTS; ENFORCEMENT.—The Fair
8 Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) is
9 amended—

10 (1) in section 15(a) (29 U.S.C. 215(a))—

11 (A) in paragraph (1), by striking “section
12 6 or section 7,” and inserting “section 6, 7, or
13 8,”; and

14 (B) in paragraph (2), by striking “section
15 6 or section 7,” and inserting “section 6, 7, or
16 8,”;

17 (2) in section 16 (29 U.S.C. 216)—

18 (A) in subsection (b)—

19 (i) by striking “section 6 or section 7”
20 each place it appears and inserting “sec-
21 tion 6, 7, or 8”;

22 (ii) by striking “their unpaid min-
23 imum wages, or the unpaid overtime com-
24 pensation,” and inserting “their unpaid
25 minimum wages, unpaid overtime com-

1 compensation, or unpaid legal public holiday
2 compensation,”; and

3 (iii) by inserting “or unpaid legal pub-
4 lic holiday compensation” after “the
5 amount of unpaid overtime compensation”;

6 (B) in subsection (c)—

7 (i) in the first sentence—

8 (I) by striking “the unpaid min-
9 imum wages or the unpaid overtime
10 compensation” and inserting “the un-
11 paid minimum wages, unpaid overtime
12 compensation, or unpaid legal public
13 holiday compensation”;

14 (II) by striking “section 6 or 7”
15 and inserting “section 6, 7, or 8”; and

16 (III) by striking “such unpaid
17 minimum wages or unpaid overtime
18 compensation” and inserting “such
19 unpaid minimum wages, unpaid over-
20 time compensation, or unpaid legal
21 public holiday compensation”;

22 (ii) in the second sentence, by striking
23 “unpaid minimum wages or overtime com-
24 pensation” inserting “unpaid minimum
25 wages, unpaid overtime compensation, or

1 unpaid legal public holiday compensation”;

2 and

3 (iii) in the third sentence, by striking
4 “unpaid minimum wages or unpaid overtime
5 compensation under sections 6 and 7”
6 and inserting “unpaid minimum wages,
7 unpaid overtime compensation, or unpaid
8 legal public holiday compensation under
9 section 6, 7, or 8”; and

10 (C) in subsection (e)(2), by striking “sec-
11 tion 6 or 7” and inserting “section 6, 7, or 8”;

12 and

13 (3) in section 17 (29 U.S.C. 217), by striking
14 “minimum wages or overtime compensation” and in-
15 serting “minimum wages, overtime compensation, or
16 legal public holiday compensation”.

17 (e) RELATION TO OTHER LAWS.—Section 18 of the
18 Fair Labor Standards Act of 1938 (29 U.S.C. 218) is
19 amended by adding at the end the following:

20 “(c) No provision of this Act or of any order there-
21 under shall excuse noncompliance with any Federal or
22 State law or municipal ordinance—

23 “(1) establishing a rate of compensation for
24 work performed on a legal public holiday that is
25 higher than the rate required under section 8; or

1 “(2) otherwise requiring compensation for work
2 performed on any other holiday that is greater than
3 the compensation required under this Act.”.

4 (f) ADDITIONAL CONFORMING AMENDMENTS.—

5 (1) IN GENERAL.—The Fair Labor Standards
6 Act of 1938 (29 U.S.C. 201 et seq.) is amended—

7 (A) in section 3(o) (29 U.S.C. 203(o)), by
8 striking “sections 6 and 7” and inserting “sec-
9 tions 6, 7, and 8”;

10 (B) in section 4(f), by striking “unpaid
11 minimum wages, or unpaid overtime compensa-
12 tion,” and inserting “unpaid minimum wages,
13 unpaid overtime compensation, or unpaid legal
14 public holiday compensation,”; and

15 (C) by repealing section 10 (29 U.S.C.
16 210).

17 (2) STATUTE OF LIMITATIONS.—Section 6 of
18 the Portal-to-Portal Act of 1947 (29 U.S.C. 255) is
19 amended by inserting “unpaid legal public holiday
20 compensation,” after “unpaid overtime compensa-
21 tion.”.