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# Compliance with the Overtime Pay Provisions of the Fair Labor Standards Act

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# COMPLIANCE WITH THE OVERTIME PAY PROVISIONS OF THE FAIR LABOR STANDARDS ACT\*

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## I. INTRODUCTION

PROPOSALS have been periodically introduced into Congress to raise the overtime pay premium required by the Fair Labor Standards Act (FLSA) from time and a half to double time in the hope that, when overtime hours were made more expensive, employers would be induced to reduce their usage of overtime and to increase their employment levels. That is, increasing the overtime premium is thought by some to be a way to stimulate employment growth and to reduce unemployment.<sup>1</sup>

If the overtime pay provisions of the FLSA are not fully complied with, the potential employment gain associated with any increase in the overtime premium will be reduced. Furthermore, since an increase in the overtime premium would increase the amount employers save by not complying with the legislation, such an increase might lead to a decrease in the compliance rate. This would further moderate the actual decline in overtime hours and the potential positive employment effects resulting from an increase in the overtime premium.

A number of data sources provide some information on compliance with overtime legislation. An early U.S. Department of Labor compliance survey indicated that 30 percent of the establishments in which overtime was worked were in violation of the overtime provisions of the FLSA and 5.9 percent of the employees working overtime were not paid in accor-

\* Our research was conducted under a contract with the Minimum Wage Study Commission; however, the views expressed here are solely our own. A draft of this paper was written while Ehrenberg was a visiting professor at Tel-Aviv University.

<sup>1</sup> See Ronald G. Ehrenberg & Paul L. Schumann, *Longer Hours or More Jobs?* (1982), for an overview of the debate on the wisdom of instituting such a policy and a summary of the relevant empirical evidence.



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