

sections 3831 and 3841 to 3843, respectively, of Title 22, Foreign Relations and Intercourse.

#### TRANSFER OF FUNCTIONS

Functions relating to enforcement and administration of equal pay provisions vested by this section in Secretary of Labor transferred to Equal Employment Opportunity Commission by Reorg. Plan No. 1 of 1978, §1, 43 F.R. 19807, 92 Stat. 3781, set out in the Appendix to Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-101 of Ex. Ord. No. 12106, Dec. 28, 1978, 44 F.R. 1053.

### § 218. Relation to other laws

(a) No provision of this chapter or of any order thereunder shall excuse noncompliance with any Federal or State law or municipal ordinance establishing a minimum wage higher than the minimum wage established under this chapter or a maximum work week lower than the maximum workweek established under this chapter, and no provision of this chapter relating to the employment of child labor shall justify noncompliance with any Federal or State law or municipal ordinance establishing a higher standard than the standard established under this chapter. No provision of this chapter shall justify any employer in reducing a wage paid by him which is in excess of the applicable minimum wage under this chapter, or justify any employer in increasing hours of employment maintained by him which are shorter than the maximum hours applicable under this chapter.

(b) Notwithstanding any other provision of this chapter (other than section 213(f) of this title) or any other law—

(1) any Federal employee in the Canal Zone engaged in employment of the kind described in section 5102(c)(7) of title 5, or

(2) any employee employed in a nonappropriated fund instrumentality under the jurisdiction of the Armed Forces,

shall have his basic compensation fixed or adjusted at a wage rate that is not less than the appropriate wage rate provided for in section 206(a)(1) of this title (except that the wage rate provided for in section 206(b) of this title shall apply to any employee who performed services during the workweek in a work place within the Canal Zone), and shall have his overtime compensation set at an hourly rate not less than the overtime rate provided for in section 207(a)(1) of this title.

(June 25, 1938, ch. 676, §18, 52 Stat. 1069; Pub. L. 89-601, title III, §306, Sept. 23, 1966, 80 Stat. 841; Pub. L. 90-83, §8, Sept. 11, 1967, 81 Stat. 222.)

#### REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (b), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

#### AMENDMENTS

1967—Subsec. (b). Pub. L. 90-83 substituted reference to section 5102(c)(7) of title 5 for reference to par. (7) of section 202 of the Classification Act of 1949 to reflect the amendment of section 5341(a) of title 5 by section 1(97) of Pub. L. 90-83 and struck out provision covering employees described in section 7474 of title 10 in view of the repeal of section 7474 of title 10 by Pub. L. 89-554.

1966—Pub. L. 89-601 designated existing provisions as subsec. (a) and added subsec. (b).

#### EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-601 effective Feb. 1, 1967, except as otherwise provided, see section 602 of Pub. L. 89-601, set out as a note under section 203 of this title.

#### RULES, REGULATIONS, AND ORDERS PROMULGATED WITH REGARD TO 1966 AMENDMENTS

Secretary authorized to promulgate necessary rules, regulations, or orders on and after the date of the enactment of Pub. L. 89-601, Sept. 23, 1966, with regard to the amendments made by Pub. L. 89-601, see section 602 of Pub. L. 89-601, set out as a note under section 203 of this title.

### § 218a. Automatic enrollment for employees of large employers

In accordance with regulations promulgated by the Secretary, an employer to which this chapter applies that has more than 200 full-time employees and that offers employees enrollment in 1 or more health benefits plans shall automatically enroll new full-time employees in one of the plans offered (subject to any waiting period authorized by law) and to continue the enrollment of current employees in a health benefits plan offered through the employer. Any automatic enrollment program shall include adequate notice and the opportunity for an employee to opt out of any coverage the individual or employee were<sup>1</sup> automatically enrolled in. Nothing in this section shall be construed to supersede any State law which establishes, implements, or continues in effect any standard or requirement relating to employers in connection with payroll except to the extent that such standard or requirement prevents an employer from instituting the automatic enrollment program under this section.

(June 25, 1938, ch. 676, §18A, as added Pub. L. 111-148, title I, §1511, Mar. 23, 2010, 124 Stat. 252.)

### § 218b. Notice to employees

#### (a) In general

In accordance with regulations promulgated by the Secretary, an employer to which this chapter applies, shall provide to each employee at the time of hiring (or with respect to current employees, not later than March 1, 2013), written notice—

(1) informing the employee of the existence of an Exchange, including a description of the services provided by such Exchange, and the manner in which the employee may contact the Exchange to request assistance;

(2) if the employer plan's share of the total allowed costs of benefits provided under the plan is less than 60 percent of such costs, that the employee may be eligible for a premium tax credit under section 36B of title 26 and a cost sharing reduction under section 18071 of title 42 if the employee purchases a qualified health plan through the Exchange; and

(3) if the employee purchases a qualified health plan through the Exchange and the employer does not offer a free choice voucher, the employee may lose the employer contribution (if any) to any health benefits plan offered by the employer and that all or a portion of such

<sup>1</sup> So in original. Probably should be "was".

contribution may be excludable from income for Federal income tax purposes.

**(b) Effective date**

Subsection (a) shall take effect with respect to employers in a State beginning on March 1, 2013. (June 25, 1938, ch. 676, §18B, as added and amended Pub. L. 111-148, title I, §1512, title X, §10108(i)(2), Mar. 23, 2010, 124 Stat. 252, 914.)

AMENDMENTS

Subsec. (a)(3). Pub. L. 111-148, §10108(i)(2), inserted “and the employer does not offer a free choice voucher” after “Exchange” and substituted “may lose” for “will lose”.

**§ 218c. Protections for employees**

**(a) Prohibition**

No employer shall discharge or in any manner discriminate against any employee with respect to his or her compensation, terms, conditions, or other privileges of employment because the employee (or an individual acting at the request of the employee) has—

(1) received a credit under section 36B of title 26 or a subsidy under section 18071 of title 42;<sup>1</sup>

(2) provided, caused to be provided, or is about to provide or cause to be provided to the employer, the Federal Government, or the attorney general of a State information relating to any violation of, or any act or omission the employee reasonably believes to be a violation of, any provision of this title<sup>1</sup> (or an amendment made by this title);<sup>1</sup>

(3) testified or is about to testify in a proceeding concerning such violation;

(4) assisted or participated, or is about to assist or participate, in such a proceeding; or

(5) objected to, or refused to participate in, any activity, policy, practice, or assigned task that the employee (or other such person) reasonably believed to be in violation of any provision of this title<sup>1</sup> (or amendment), or any order, rule, regulation, standard, or ban under this title<sup>1</sup> (or amendment).

**(b) Complaint procedure**

**(1) In general**

An employee who believes that he or she has been discharged or otherwise discriminated against by any employer in violation of this section may seek relief in accordance with the procedures, notifications, burdens of proof, remedies, and statutes of limitation set forth in section 2087(b) of title 15.

**(2) No limitation on rights**

Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law or under any collective bargaining agreement. The rights and remedies in this section may not be waived by any agreement, policy, form, or condition of employment.

(June 25, 1938, ch. 676, §18C, as added Pub. L. 111-148, title I, §1558, Mar. 23, 2010, 124 Stat. 261.)

REFERENCES IN TEXT

Section 18071 of title 42, referred to in subsec. (a)(1), was in the original “section 1402 of this Act”, and was

translated as meaning section 1402 of the Patient Protection and Affordable Care Act, which is classified to section 18071 of title 42, to reflect the probable intent of Congress.

This title, referred to in subsec. (a)(2), (5), probably means title I of Pub. L. 111-148, Mar. 23, 2011, 124 Stat. 130. For complete classification of title I to the Code, see Tables.

Section 2087(b) of title 15, referred to in subsec. (b)(1), was in the original “section 2807(b) of title 15”, and probably should have read “section 40(b) of the Consumer Product Safety Act”, which is classified to section 2087(b) of Title 15, Commerce and Trade.

**§ 219. Separability**

If any provision of this chapter or the application of such provision to any person or circumstance is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

(June 25, 1938, ch. 676, §19, 52 Stat. 1069.)

**CHAPTER 9—PORTAL-TO-PORTAL PAY**

Sec.	
251.	Congressional findings and declaration of policy.
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253.	Compromise and waiver.
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**§ 251. Congressional findings and declaration of policy**

(a) The Congress finds that the Fair Labor Standards Act of 1938, as amended [29 U.S.C. 201 et seq.], has been interpreted judicially in disregard of long-established customs, practices, and contracts between employers and employees, thereby creating wholly unexpected liabilities, immense in amount and retroactive in operation, upon employers with the results that, if said Act as so interpreted or claims arising under such interpretations were permitted to stand, (1) the payment of such liabilities would bring about financial ruin of many employers and seriously impair the capital resources of many others, thereby resulting in the reduction of industrial operations, halting of expansion and development, curtailing employment, and the earning power of employees; (2) the credit of many employers would be seriously impaired; (3) there would be created both an extended and continuous uncertainty on the part of industry, both employer and employee, as to the financial condition of productive establishments and a

<sup>1</sup> See References in Text note below.