

FLSA-715

July 2, 1986

This is in further response to your letter of May 14, enclosing correspondence from *** of Tampa, Florida, concerning the application of the Fair Labor Standards Act (FLSA) to employees of amusement or recreational establishments. *** is specifically concerned with the application of section 13(a)(3) of FLSA to employees of horse racetracks, dog racetracks, and jai alai frontons.

The FLSA is the Federal law of most general application concerning wages and hours of work. This law requires that all covered and nonexempt employees be paid at least \$3.35 an hour for all hours worked and not less than one and one-half times their regular rates of pay for all hours worked over 40 in a workweek. The major provisions of FLSA are outlined in the enclosed "Handy Reference Guide to the Fair Labor Standards Act."

Section 13(a)(3) of FLSA provides an exemption from its minimum wage and overtime pay requirements for employees employed in an amusement or recreational establishment, if (A) it is not open more than seven months in a calendar year, or (B) its average receipts during any six months of the preceding calendar year did not exceed one-third of its average receipts for the other six months of such year. Since the provisions of FLSA are statutory, any change in its requirement would, of course, require congressional action.

Horse racetracks, dog racetracks, and jai alai frontons are among the type of amusement or recreational establishments that may qualify for the exemption contained in section 13(a)(3) of FLSA, provided either test (A) or (B) discussed above is met. In addition, it should be noted that FLSA does not require an employer to give employees the day off on Federal holidays, or pay additional compensation for working on a holiday. Such matters are for private agreement between the employer and the employees in question or the employees' authorized representatives.

If after reading the enclosed material your constituent has any further questions concerning the application of FLSA, you may wish to suggest that he get in touch with our Area Office in Tampa at the Interstate Building, Suite 402, 1211 North Westshore Boulevard (Zip Code: 33607) (Telephone: 220-2154). That office will be pleased to offer Mr. *** every possible assistance. Your enclosures are returned as requested.

Sincerely,

Paula V. Smith
Administrator

Enclosures