

TESTIMONY

OF

RICK BLOOMINGDALE, PRESIDENT

FRANK SNYDER, SECRETARY-TREASURER

THE PENNSYLVANIA AFL-CIO

ON

PROPOSED RULEMAKING ON REGULATIONS

FOR MINIMUM WAGE

FOR THE

HOUSE LABOR & INDUSTRY COMMITTEE

SEPTEMBER 5, 2018

Richard W. Bloomingdale, President

Frank Snyder, Secretary-Treasurer

Pennsylvania AFL-CIO

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Chairmen Kauffman and Galloway and members of the House Labor & Industry
Committee,

We thank you for this opportunity to present testimony in support of the new regulation proposed by the Pennsylvania Department of Labor and Industry regarding the Executive, Administrative, and Professional (EAP) salaried worker exemptions. This regulation is crucial for working men and women because of the continuous increases to the costs of living and housing after 40 years since the last regulation. In Pennsylvania, there are an estimated 465,000 workers who currently fall into the EAP exemption but would not be exempt under the proposed regulation. The current regulation gives the employers an advantage over their employees. Employees would exceed the forty-hour week but have fixed salaries with minimal administrative managerial duties, so the employer can avoid paying these

hardworking men and women the correct overtime wage they deserve. The State Federation strongly supports this new regulation so these hardworking men and women in our unions are fairly compensated for the work they have done, and are fairly categorized for the tasks they are assigned.

Under the current regulations in Pennsylvania, the minimum salary threshold for the EAP exemption is either \$8,060 or \$13,000, depending on job duties.¹ In 1977, this amount may have made sense, but 40 years later it is at or below the federal poverty level of \$12,140. The minimum salary threshold should be close to the average statewide wage, not the poverty level.² A retail store manager should not be able to work 10 hour days, 6 days per week, while earning poverty level wages that are potentially less than the minimum wage.

By clarifying the definitions of EAP employees and raising the minimum salary to reflect current wage levels, the proposed regulation would make it much more difficult for employers to misclassify workers in order to get around the overtime requirements. This would mean that workers are not called managers when they're not actually managers, and ensure that workers on the lower end of the wage spectrum are paid correctly for all of the hours they work.

¹ For workers covered by the federal Fair Labor Standards Act (FLSA), the threshold is somewhat higher at \$23,660. But that amount has not been updated since 2004, and many small businesses are not covered by FLSA anyway.

² According to the Department of Labor and Industry, the Statewide Average Weekly Wage was \$1025.26 in fiscal year 2016, the most recent year with data. The average yearly wage was therefore \$53,313.52. *Statewide Average Weekly Wage (SAWW)*, Pennsylvania Department of Labor and Industry, http://www.workstats.dli.pa.gov/Documents/SAWW/fiscal_year.pdf.

This regulation would likely have two practical outcomes:

- (1) People who work over 40 hours per week will be paid more for their work by being compensated for overtime hours or by having their salaries raised if they are truly managerial workers; or
- (2) Employers who do not want to pay overtime will simply choose to hire more people to work the extra hours that are currently worked for free, giving hard-working salaried employees more time to spend with their families and creating new opportunities for unemployed and under-employed Pennsylvanians.

Either outcome would be good for workers and Pennsylvania on the whole, with more money in the pockets of working Pennsylvanians and their families or increased opportunities in the job market. This additional income would be spent in local communities, providing a boon for businesses and higher tax revenues for the Commonwealth.

The proposed changes to the EAP exemption are long-overdue, and we commend the Department of Labor and Industry's efforts to strengthen protections for Pennsylvania workers.

We thank you for this opportunity to present testimony in support of this new regulation proposed by the Pennsylvania Department of Labor and Industry regarding the Executive, Administrative, and Professional (EAP) salaried worker

exemptions, and urge the House Labor and Industry Committee to appreciate the needs of the working class citizens across this Commonwealth.