

118TH CONGRESS
1ST SESSION

H. R. 741

To amend the Fair Labor Standards Act of 1938 to provide that an employee’s “regular rate” for purposes of calculating overtime compensation will not be affected by certain additional payments.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 2023

Mr. CALVERT introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the Fair Labor Standards Act of 1938 to provide that an employee’s “regular rate” for purposes of calculating overtime compensation will not be affected by certain additional payments.

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 “Employee Bonus Pro-
5 tection Act”.

6 **SEC. 2. REGULAR RATE FOR OVERTIME PURPOSES.**

7 Section 7(e) of the Fair Labor Standards Act of 1938
8 is amended—

1 (1) by inserting before the semicolon at the end
2 of paragraph (3) the following: “; or (d) the pay-
3 ments are made to reward an employee or group of
4 employees for meeting or exceeding the productivity,
5 quality, efficiency, or sales goals as specified in a
6 gainsharing plan, incentive bonus plan, commission
7 plan, or performance contingent bonus plan”; and

8 (2) by adding at the end the following:
9 “A plan described in clause (d) of paragraph (3) shall be
10 in writing and made available to employees, provided that
11 the amount of the payments to be made under the plan
12 be based upon a formula that is stated in the plan, and
13 be established and maintained in good faith for the pur-
14 pose of distributing to employees additional remuneration
15 over and above the wages and salaries that are not de-
16 pendent upon the existence of such plan or payments made
17 pursuant to such plan.”.

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