

Public Safety Officers Lose in Senate Passage of Harkin Overtime Amendment

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Today Fraternal Order of Police National President Chuck Canterbury expressed his profound disappointment at the actions of the United State Senate to roll back the recently won improvements in overtime protections for public safety employees by passing the "Harkin Amendment" to S. 1637, the "Jumpstart Our Business Strength (JOBS) Act."

"Today, a slim majority of the United States Senate voted to block a regulatory increase in the overtime protections for public safety officers in this country," Canterbury said. "They voted to maintain the status quo and to affirm that the existing regulations which exempt police officers, firefighters and EMTs from receiving overtime are appropriate for these first responders.

Canterbury explained that the passage of the Harkin Amendment jeopardizes the ability of the Department of Labor (DOL) to implement their final Part 541 regulations as planned in August 2004, and may actually prohibit the Department from promulgating any new regulations for the foreseeable future. Thus, the regulations which were issued on 23 April, and which guarantee overtime to an expanded majority of those public safety officers whose continued performance of overtime work is vital to the security of nation, may never take effect.

With regard to the overtime rights of public safety employees, Section 541.3(b) of the final rule provides that neither the exemptions contained in the Act nor the regulations apply to police officers, firefighters, EMTs and others—regardless of their rank of pay level—who perform public safety work. The regulations go on to clarify why these employees cannot be classified as executive, administrative or professional employees, and thus be exempted from receiving overtime pay.

In addition, DOL has acknowledged that the right to overtime compensation may be extended to some public safety employees who are currently classified as exempt because of other changes to the regulations. Canterbury noted that one group in particular that will likely benefit from the final regulations are the thousands of police sergeants who serve in cities across the nation. In the preamble, the Department addressed their eligibility by noting the "police sergeants, for example, are entitled to overtime pay even if they direct the work of other police officers because their primary duty is not management or directly related to management....neither do they work in a field of science or learning where a specialized academic degree is a standard prerequisite for employment."

"Make no mistake: this fight is far from over. The advocates of the Harkin Amendment may think that they have gained a victory on this issue," Canterbury said, "but it is temporary at best, and came at the expense of America's public safety employees. We will continue to educate Members of Congress about the importance of the DOL regulations to police officers in this country; and we will take our message to the House of Representatives, to the White House and, if necessary, to every polling place in this country. The F.O.P. is prepared to make this issue a litmus test for every candidate for Federal office to ensure that public safety employees receive the compensation they are entitled to."

The Fraternal Order of Police is the nation's largest law enforcement labor organization, with more than 312,000 members.