

THIS SECTION DOES NOT APPLY TO AN EMPLOYER THAT IS:

- (1) SUBJECT TO 49 U.S.C. § 10501;
- (2) AN ESTABLISHMENT THAT IS A HOTEL OR MOTEL;
- (3) AN ESTABLISHMENT THAT IS A RESTAURANT;
- (4) CONSIDERED A GASOLINE SERVICE STATION BECAUSE THE EMPLOYER IS ENGAGED PRIMARILY IN SELLING GASOLINE AND LUBRICATING OIL, EVEN IF THE EMPLOYER SELLS OTHER MERCHANDISE OR PERFORMS MINOR REPAIR WORK;
- (5) A BONA FIDE PRIVATE COUNTRY CLUB;
- (6) A NOT FOR PROFIT ENTITY AND IS ENGAGED PRIMARILY IN PROVIDING TEMPORARY AT-HOME CARE SERVICES, SUCH AS COMPANIONSHIP OR DELIVERY OF PREPARED MEALS, TO AGED, DISABLED, HANDICAPPED, OR SICK INDIVIDUALS OR INDIVIDUALS WITH A MENTAL DISORDER;
- (7) A NOT FOR PROFIT CONCERT PROMOTER, LEGITIMATE THEATER, MUSIC FESTIVAL, MUSIC PAVILION, OR THEATRICAL SHOW; OR
- (8) AN AMUSEMENT OR RECREATIONAL ESTABLISHMENT, INCLUDING A SWIMMING POOL, IF THE ESTABLISHMENT:
 - (I) OPERATES FOR NO MORE THAN 7 MONTHS IN A CALENDAR YEAR; OR
 - (II) FOR ANY 6 MONTHS DURING THE PRECEDING CALENDAR YEAR, HAS AVERAGE RECEIPTS IN EXCESS OF ONE-THIRD OF THE AVERAGE RECEIPTS FOR THE OTHER 6 MONTHS.

(C) EXCEPTIONS FOR EMPLOYEES.

THIS SECTION DOES NOT APPLY TO AN EMPLOYER WITH RESPECT TO:

- (1) AN EMPLOYEE FOR WHOM THE UNITED STATES SECRETARY OF TRANSPORTATION MAY SET QUALIFICATIONS AND MAXIMUM HOURS OF SERVICE UNDER 49 U.S.C. § 3102;
- (2) A MECHANIC, PARTSPERSON, OR SALESPERSON WHO PRIMARILY SELLS OR SERVICES AUTOMOBILES, FARM EQUIPMENT, TRAILERS, OR TRUCKS, IF THE EMPLOYER IS ENGAGED PRIMARILY IN SELLING THOSE VEHICLES TO ULTIMATE BUYERS AND IS NOT A MANUFACTURER; OR
- (3) A DRIVER IF THE EMPLOYER IS ENGAGED IN THE BUSINESS OF OPERATING TAXICABS.