

29 C.F.R. § 779.352

Requirements for exemption.

The requirements of the exemption are: (a) The establishment in which the employee or proprietor works must qualify as an exempt retail or service establishment under section 13(a)(2) of the Act; (b) the employee or proprietor must be engaged in handling telegraphic messages for the public pursuant to an agency or contract arrangement with a telegraph company; (c) such employee or proprietor must be one to whom the minimum wage and overtime pay provisions of the Act would not apply in the absence of such handling of telegraphic messages (See *Western Union Tel. Co. v. McComb* 165 F. 2d. 65 (CA-6), certiorari denied, 333 U.S. 362); and (d) the exemption applies only where the telegraphic message revenue does not exceed \$500 a month. For purposes of this exemption only, in determining whether a retail or service establishment meets the percentage tests contained in section 13(a)(2) of the Act, the receipts from the telegraphic message agency will not be included.

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