

29 C.F.R. § 779.387

“Restaurant” exemption under section 13(b) (8).

(a) As amended in 1966, the Act, in section 13(b) (8), exempts from its overtime pay provisions “any employee employed by an establishment which is a * * * restaurant”. The term *restaurant* as used in section 13(b)(8) of the Act means an establishment which is primarily engaged in selling and serving to purchasers at retail prepared food and beverages for immediate consumption on the premises. This includes such establishments commonly known as lunch counters, refreshment stands, cafes, cafeterias, coffee shops, diners, dining rooms, lunch rooms, or tea rooms. The term “restaurant” does not include drinking establishments, such as bars or cocktail lounges, whose sales of alcoholic beverages exceed the receipts from sales of prepared foods and nonalcoholic beverages. Certain food or beverage service employees of establishments such as bars and cocktail lounges, however, may be exempt under section 13(b)(18).

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