
29 C.F.R. § 782.5

Loaders.

- (a) A “loader,” as defined for Motor Carrier Act jurisdiction (Ex parte Nos. MC–2 and MC–3, 28 M.C.C. 125, 133, 134, 139), is an employee of a carrier subject to section 204 of the Motor Carrier Act (other than a driver or driver's helper as defined in §§ 782.3 and 782.4) whose duties include, among other things, the proper loading of his employer's motor vehicles so that they may be safely operated on the highways of the country. A “loader” may be called by another name, such as “dockman,” “stacker,” or “helper,” and his duties will usually also include unloading and the transfer of freight between the vehicles and the warehouse, but he engages, as a “loader,” in work directly affecting “safety of operation” so long as he has responsibility when such motor vehicles are being loaded, for exercising judgment and discretion in planning and building a balanced load or in placing, distributing, or securing the pieces of freight in such a manner that the safe operation of the vehicles on the highways in interstate or foreign commerce will not be jeopardized. (*Levinson v. Spector Motor Service*, 300 U.S. 649; *Pyramid Motor Freight Corp. v. Ispass*, 330 U.S. 695; *Walling v. Gordon's Transport* (W.D. Tenn.), 10 Labor Cases, par. 62,934, affirmed 162 F. (2d) 203 (C.A. 6), certiorari denied 332 U.S. 774; *Walling v. Huber & Huber Motor Express*, 67 F. Supp. 855; Ex parte Nos. MC–2 and MC–3, 28 M.C.C. 125, 133, 134)
- (b) The section 13(b)(1) exemption applies, in accordance with principles previously stated (see § 782.2), to an employee whose job involves activities consisting wholly or in part of doing, or immediately directing, a class of work defined: (1) As that of a loader, and (2) as directly affecting the safety of operation of motor vehicles in interstate or foreign commerce within the meaning of the Motor Carrier Act, since such an employee is an employee with respect to whom the Secretary of Transportation has power to establish qualifications and maximum hours of service. (*Levinson v. Spector Motor Service*, 330 U.S. 649; *Pyramid Motor Freight Corp. v. Ispass*, 330 U.S. 695; *Walling v. Silver Fleet Motor Express*, 67 F. Supp. 846; *Walling v. Huber & Huber Motor Express*, 67 F. Supp. 855; *Walling v. Gordon's Transports* (W.D. Tenn.); 10 Labor Cases, par. 62,934, affirmed 162 F. (2d) 203 (C.A. 6) certiorari denied 332 U.S. 774; *Tinerella v. Des Moines Transp. Co.*, 41 F. Supp. 798.) Where a checker, foreman, or other supervisor plans and immediately directs the proper loading of a motor vehicle as described above, he may come within the exemption as a partial-duty loader. (*Levinson v. Spector Motor Service*, 330 U.S. 649; *Walling v. Gordon's Transports* (W.D. Tenn.), 10 Labor Cases, par. 62,934; affirmed 162 F. (2d) 203 (C.A. 6), certiorari denied 332 U.S. 774; *Walling v. Huber & Huber Motor Express*, 67 F. Supp. 885; *Walling v. Silver Fleet Motor Express*, 67 F. Supp. 846; *Crean v. Moran Transportation Lines*, 57 F. Supp. 212 (W.D. N.Y.). See also 9 Labor Cases, par. 62,416; *Walling v. Commercial Motor Freight* (S.D. Ind.), 11 Labor Cases, par. 63,451; *Hogla v. Porter* (E.D. Okla.), 11 Labor Cases, par. 63,389 6 W. H. Cases 608.)

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