



New York State Department of Labor
David A. Paterson, Governor
Colleen C. Gardner, Commissioner

May 7, 2010



Re: Request for Opinion
Minimum Wage
Moving Company
RO-10-0064

Dear [REDACTED],

This letter is written in response to your letter dated March 2, 2010, in which you inquire as to whether employees of moving companies are exempt from the New York State minimum wage laws.

The New York State Minimum Wage Act, which contains the State minimum wage and overtime provisions, generally applies to all individuals who fall within its definition of "employee." (*see*, Labor Law §651 *et seq.*) Section 651(5) defines "employee" as "any individual employed or permitted to work by an employer in any occupation," but excludes fifteen categories of workers from that definition. (*see*, Labor Law §651(5)(a-o).) Since none of those exceptions relate to moving companies, it appears that the employees in question are within the coverage of the New York State minimum wage laws. However, since you do not describe the specific duties of the employees of the moving company, we are unable to definitively determine whether some may fall within the categories of workers excluded from the definition of employee. For example, some of the employees of the moving company may be employed or permitted to work in a bona fide executive, administrative, or professional capacity (Section 651(5)(c)). You should review the provisions of Labor Law, Section 651 and contact us if you have any further questions.

Your letter also asks if the Department has any previously issued opinion letters addressing this question. After a search of the Department's previously issued opinions, no letters relating to the applicability of the State minimum wage laws to moving companies were located.

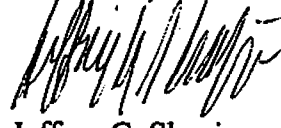
Tel: (518) 457-4380, Fax: (518) 485-1819
W. Averell Harriman State Office Campus, Bldg. 12, Room 509, Albany, NY 12240

I trust this to be responsive to your inquiry.

Very truly yours,

Maria L. Colavito, Counsel

By:

A handwritten signature in black ink, appearing to read "Jeffrey G. Shapiro", written over a horizontal line.

Jeffrey G. Shapiro
Associate Attorney

JGS:MP