

Chicago Tribune

May 26, 2016

Tech startups: The casualties of Obama's new overtime rule

By Adam Robinson

Last week the U.S. Department of Labor introduced its new overtime rule, doubling the salaried exemption for those who must be paid overtime to \$47,476 from \$23,660. The DOL claims the move merely updates the 1938 Fair Labor Standards Act. But in reality that act, created at a time when nearly all workers held a traditional job, is a relic that can't be refurbished.

The rule makes middle-management and middle-class jobs more expensive for employers. As a result, there may be fewer of these positions. According to economists at the Mercatus Center at George Mason University, the rule will force employers to reclassify salaried jobs as hourly ones to more easily keep track of expensive overtime costs.

At my Chicago-based company, Hireology, we're feeling the consequences of the mandate firsthand. We employ 100 full-time salaried professionals, including 40 salespeople, whose success — like with most sales positions — depends on persistence, which means working until the sale is made, whatever the hours.

We pay new salespeople a base salary of \$40,000, and those who hit their quota can earn \$70,000 to \$120,000 a year. However, under this new rule, we must choose between raising base salaries to the new exempt threshold or converting everyone on the sales team to an hourly rate and capping hours at 40 per week.

Both alternatives are unattractive. A 20 percent pay increase for new hires to put them above the threshold would hamstring our expansion plans. But, capping hours at 40 per week would mean a loss of earning potential for our salespeople, and add costly time tracking overhead to our bottom line. Both paths result in less opportunity and fewer jobs.

Employees looking to work a little harder to advance their careers will be the casualties of this rule because middle-management positions will turn into clock-punching ones, without the prestige, benefits, flexibility, bonuses and perks that come with being salaried employees.

This regulation disproportionately hurts America's capi-

tal-constrained technology startups and emerging growth companies like mine whose teams do not work typical hours and do not get typical compensation. In my experience, those working at technology startups voluntarily recognize that their positions are high-risk, high-reward ventures, and that they may have to go months or years with little pay to get a big payout in the end.

In this sense, the overtime rule attacks the compensation structure of technology startups as well as other small businesses that emphasize bonuses, profit sharing or equity participation. Like most regulations, this rule favors big companies that can afford to comply at the expense of small startups that cannot. (Note that unlike the Affordable Care Act and many other regulations, the overtime rule does not exempt very small businesses.)

Is the startup technology sector — the single-largest creator of new high-paying jobs — really something that we really want to disrupt? Not only did tech companies help the country emerge from the last recession, but they also are responsible for incredible innovations in communication, transportation and health care that enrich the lives of everyone. No other country in the world has an equivalent startup culture, largely because they've added layer upon layer of labor regulations like the overtime rule to their economies.

While the intent of this rule is noble, the reality is that it will hamper job creation and subject entrepreneurs to yet another new regulation. A better path is to appreciate the amazing opportunities that today's economy provides and examine how we can create more — not fewer — of them.

The overtime rule is a step in the wrong direction. It breaks the basic American bargain: If you're willing to put in long hours, you can quickly climb the career ladder, earn six figures and maybe even create the next life-changing innovation.

Adam Robinson is the CEO of the Chicago-based Hireology and a member of the Job Creators Network.