

## Minimum Wage Opinion Letter **05-16-03 - Commuting in Employer-Supplied Vehicles**

May 16, 2003

I am writing in response to your request for this Office's written opinion regarding travel time under the Massachusetts Minimum Fair Wage Law, M.G.L. c. 151, and regulations promulgated thereunder. Specifically, you would like to know if your client's employees' home to work travel in a company-provided vehicle at the beginning and the end of the day constitutes compensable working time under Massachusetts law. [\[1\]](#)

As I understand it, your client's employees service electronic equipment. These employees do not work at a fixed location, but regularly report to different customer facilities on an as needed basis. Employees are provided with company vans (similar to family vans), equipped with parts and tools, to travel to and from these work sites. The employees are permitted to take the vans home, use the vans for some personal purposes, and the employer company pays all expenses of travel (gas, oil, maintenance, insurance).

Employees receive their first work assignment for the day by telephone call or e-mail on the afternoon before each working day. Employees call the dispatcher in the morning to confirm that there is no change in the work assignment, and then the employees drive the company vehicles to the various work sites. At times, employees may receive an overnight delivery of a few parts at their home. In such cases, the employees place the parts in the vans prior to leaving for the work site the next morning. You have questioned whether these activities affect the compensability of the commuting time.

Ordinary travel between home and work is not compensable working time. 455 C.M.R. 2.03(4)(a). Travel required after the beginning of, or before the close of, the workday is compensable working time. 455 C.M.R. §2.03(4)(b). When an employee uses an employer-provided vehicle for travel to and from work, this Office determines the start of the work day in a manner consistent with analogous federal law, the federal Fair Labor Standards Act (FLSA) and the Portal-to-Portal Act of 1947, as amended by the FLSA Amendments of 1996. See Goodrow v. Lane Bryant, Inc., 423 Mass. 165, 169-170 (2000) (in the absence of a statutory definition, we may look to interpretations of analogous federal statutes for guidance).

The mere fact that the employee is traveling in a company-provided vehicle, with tools and materials, does not, in and of itself, transform ordinary commuting time into compensable working time. Provided that: 1) the vehicle is of the type that does not impose a greater difficulty to operate than a vehicle normally used for commuting; 2) the employee incurs no out-of-pocket expenses for driving, parking, or otherwise maintaining the employer's vehicle; 3) travel is within the normal commuting area for the employer's business; and 4) use of the employer's vehicle is subject to an agreement on the part of the employer and the employee, or his or her representative, the employee's home to work travel does not constitute compensable working time. See e.g. U.S. Department of Labor Wage and Hour Division Opinion Letters, dated April 18, 2001 & January 29, 1999. The phone call to the dispatcher and the placement of a few parts in the vehicle would be considered activities performed by the employee which are incidental to the use of the vehicle for commuting and would not affect the non-compensability of the home to work travel.

I hope this information has been helpful. Please note that this opinion is based solely on the information provided with your request. The existence of other facts not contained in your request might require a different conclusion. If you have any further questions, please feel free to contact me.

Sincerely,  
Lisa C. Price  
Legal Counsel

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[\[1\]](#) Please note that employers are also subject to the federal minimum wage and hour law, found in the Fair Labor Standards Act (FLSA), and regulations promulgated thereunder. For information about applicable federal wage and hour laws, you should contact the U.S. Department of Labor.

= Names have been Omitted