

# Maritime Business Owners: Beware of Overtime Pay Requirements

## Business in Savannah (BiS)

By **Todd M. Baiad**

With many business owners, taking the time to understand a complex area of law is the last item on a long list of responsibilities demanding their time and attention.

However, understanding the obligations federal laws place on employers, especially those with maritime businesses, should not be ignored.

In 1938, Congress enacted the Fair Labor Standards Act (FLSA), forever changing the relationship most employers have with their employees. Unless their workers are exempt, the act requires employers to pay employees a minimum wage, keep records of the time employees spend working and pay overtime when employees work more than 40 hours in one week.

The Fair Labor Standards Act includes an exemption for [seamen](#) so many maritime business owners may not have to comply with the statute.

When Congress passed the act, it recognized how burdensome it would be for maritime employers to try and keep an accurate record of the time when crewmen worked at sea. Congress also realized the distinction between the time a crewman is working or not working is often hazy.

For these reasons, Congress exempted seamen from Fair Labor Standards Act protection. However, it is important to understand that the exemption may not always allow the employer to escape the mandates of the FLSA.

Courts have interpreted this exemption fairly narrowly, only applying it to employees whose work is primarily to aid in the actual operation of a vessel. This means that some members of a ship's crew may not qualify for the exemption.

In the Eleventh Circuit, courts have suggested that crewmen who primarily serve in the galley or have substantial duties on the ship that are not a part of the actual operation of the vessel are not “seamen” under the act.

This narrow definition of [seaman](#) conflicts with the definition used in other aspects of maritime law. To qualify as a seaman under the Jones Act, an individual need only contribute to the function of a navigable vessel or the accomplishment of its mission.

While this definition may seem essentially the same, courts generally agree it is far broader than the definition of a “seaman” under the Fair Labor Standards Act.

The difference in these definitions could have drastic consequences for a maritime business.

The Jones Act protects maritime workers in a variety of ways, including allowing workers to seize a ship as collateral for a claim of unpaid wages. This extreme remedy encourages employers to ensure they are compensating their employees in accordance with their employment agreement.

This is just one example of how critical it is for maritime business owners to understand the nuances of their obligations as employers.

The Longshoreman and Harbor Worker's Compensation Act and other federal statutes also have their own definitions for the classification of maritime employees that could conflict with the Jones Act or the Fair Labor Standards Act. These differences are complicated and confusing, but they create a minefield full of hidden dangers for employers.

Maritime business owners need to understand the way these laws interact in order to successfully navigate issues that could grind their business to an expensive and earth-shattering halt.

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## Practice Areas

- Commercial Litigation
- Maritime & Admiralty

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