POLICY BULLETIN

SUBJECT: Wage & Hour/Child Labor Laws

DATE: January 2013

POLICY

Employee compensation, working hours and child labor are governed by a variety of state and federal laws. The scope of these laws includes, but is not limited to, all of the following topics:

Minimum Wage    Overtime Hours & Pay    Work Week    Tip Credit
Child Labor      Shortages            Hours Worked

It is the supervisor’s responsibility to comply with all applicable laws. This Policy and other training and guidance materials are designed to assist you in complying with all applicable laws; however, these resources are not intended to be comprehensive. Please contact your Area Coach or HR Leader with any questions.

MINIMUM WAGE

SMC complies with all federal and state minimum wage requirements. Where federal and state laws differ, SMC follows the more restrictive requirement, i.e., whichever requires a higher hourly wage.

TIP CREDIT

Where permitted by law, SMC offsets (i.e. credit) the minimum hourly rate payable to tipped employees by a portion of the tips received. Employees are required to accurately report the amount of tips received. If an employee does not accurately report tips received, the RGM should address the problem through progressive discipline and not through adjustments to the amount of tips reported.

HOURS WORKED

Non-exempt employees are to be paid their applicable hourly rate and overtime for all hours worked. Non-exempt Salaried Assistant Managers are to be paid their full weekly salary for any week in which they perform any work, plus overtime pay for all hours worked over 40, whenever applicable. The weekly salary of Salaried Assistant Managers can be prorated for the first or last weeks of employment if less than forty hours are worked during either of those weeks.

The terms “hours worked” and “perform work” include any time an employee is actually working as well as any time an employee is required to be on the premises. Hours worked also includes time spent training, and driving on Company business (except to and from the workplace). In addition, some business travel time is considered “hours worked,” and HR Leaders should be consulted on this issue. No supervisor or manager shall allow an employee to perform work unless that employee is “on the clock.” Likewise, no supervisor or manager shall request, suggest or require an employee to remain on the premises before or after a shift unless that employee is “on the clock.”

Only employees who are “on the clock” should be in uniform on Company premises or performing work. There are three exceptions to this general rule. These are:

a) Authorized meal breaks of 30 minutes or more – see below for treatment of breaks;
b) Arrivals briefly before the scheduled start time (should be no more than 15 minutes under normal circumstances); or
c) Waiting briefly for transportation at the end of a shift (should be no more than 15 minutes under normal circumstances)
**Accurate Record of Working Time**
Time records shall be kept and shall accurately reflect all hours worked and all days on which work was performed. Under no circumstances may hours worked on one day be transferred to another day. It is also against SMC policy to “comp” an employee with hours off on one day in exchange for hours worked on another day (i.e., “comp time”).

Restaurant management may make adjustments to time records only for the following reasons:
- Employee failed to clock in
- Employee failed to clock out
- Employee clocked in on wrong labor code
- Employee attended off-site meeting and could not clock in at usual place of work
- To add vacation pay, sick pay or holiday pay

Area Coaches approval is required for all other desired adjustments. All adjustments to employee hours **MUST** accurately reflect the true hours worked by the employee. For example, if an employee takes a 30-minute unpaid meal break during the middle of their shift but forgets to clock out, the proper adjustments must be made to accurately reflect a clock out at the beginning of the meal break and clock in at the conclusion of the meal break. It is not proper to simply delete 30 minutes from the end of the employees’ shift by adjusting his/her final clock out backwards by 30 minutes. At the end of each pay period, the RGM shall ensure that all payroll for that pay period are verified by the employee reviewing and signing and dating the pay period time clock report. Signed reports will be retained according to federal/state guidelines.

**Overtime**
Under federal law, hourly employees must be paid 1½ times their regular hourly rate for all hours of working time over 40 in a workweek. In addition, some states impose a daily overtime requirement or other overtime requirements, which must be followed wherever applicable. Salaried Assistant Managers are paid overtime according to a formula approved under federal law for salaried non-exempt employees. For all non-exempt employees, any hours worked over 40 in a workweek must be coded as overtime hours. SMC’s current workweek begins at 4:00AM on Wednesday and ends at 3:59AM on the following Wednesday.

Supervisors and managers shall not remove hours worked in one workweek and add them to the next workweek to avoid payment of overtime. Similarly, Supervisors and managers shall not “comp” hours in one workweek for hours worked over 40 in another workweek.

**Shortages**
Management shall not ask or require employees to make up for cash shortages with their own funds and shall not deduct shortages from paychecks. Paychecks may not be withheld from an employee on the scheduled pay date without specific approval from the HR Leader.

**Investigations**
If an investigator from a state or the federal agency visits the work site to investigate compliance with laws and regulations, the manager in charge shall ask for identification and immediately contact the Area Coach and the HR Leader.
Child Labor
To ensure compliance with child labor laws, the following rules shall apply:

- SMC does not hire persons under age 16.
- Persons under age 18 shall not be permitted to clean, handle or operate the dough mixer under any circumstances.
- Persons under age 18 shall not be permitted to clean, handle or operate the dough roller under any circumstances.
- Persons under age 18 shall not be hired as delivery drivers and shall not drive for SMC under any circumstances.

State laws governing child labor vary greatly. Each area is responsible for informing restaurant personnel regarding their particular state laws. Many states place restrictions on the hours that persons under the age of 18 may work. Any questions should be referred to the HR Leader. The HR Leader must be notified immediately of any child labor investigations or assessments for alleged child labor violations.

Proof of Age
Proof of age documentation must be obtained for all restaurant employees under the age of 18. The following are acceptable forms of age documentation: birth certificate; federal age certificate; state age certificate; picture driver’s license; state or school issued work permit; and military I.D. A copy of the proof of age documentation is to be kept in the employee’s personnel file along with the employee’s signature on the Labor Law Agreement document printed on the inside cover of the employee file folder. If state requirements regarding proof of age are more restrictive than SMC guidelines, such state requirements will apply. Each Area Coach is responsible for informing restaurant personnel regarding particular state laws within the area regarding these issues.

Duty to Report Violations
It is the duty of all SMC employees to ensure compliance with this Policy and with all applicable federal and state laws. If any employee believes that this or any other Company policy is being violated, the employee should inform the RGM. If the RGM is not responsive or if the employee believes that the RGM is intentionally violating a policy, then the employee should inform his/her Area Coach, Operations Director or the HR Leader of the suspected violation. SMC will not punish or retaliate against any individual for reporting a violation of any SMC policy.

Enforcement
If any employee intentionally fails to comply with federal and state law or this Policy, the employee will be subject to immediate termination. RGM’s are responsible for the payroll in their restaurants and can be terminated for any failure by themselves, their Assistant Managers or Shift managers to comply with this Policy or with the law. Because it is the responsibility of all SMC managers to monitor compliance in areas under their direct or indirect control, progressive discipline up to and including termination will be issued to managers supervising responsible parties who know or should have known about violations of this Policy or the law.