

Regulations that inhibit hiring

RICHARD RAHN

One of the riskiest occupations in the world is that of "employer." The same politicians who complain about rising unemployment are the ones who make it increasingly dangerous to hire anyone. Employers are at risk due to government rules and regulations which complexity and opaqueness rival that of the tax code.

The so-called "Fair Labor Standards Act" and its attendant regulations have grown into a nightmarish monstrosity. Even the bureaucrats at the Labor Department no longer claim to understand it, but an employer who unknowingly violates it can be fined or even go to jail. Under the antimoney laundering laws, a president of a bank can be sent to jail because a young teller in a faraway branch office inadvertently opens an account for an individual whose money came from a nonconvicted criminal. The CEO of a manufacturing company can be charged under the anti-discrimination laws because one of his or her employees in a distant plant told an off-color joke to some other employee.

Labor Secretary Elaine Chao is attempting to bring some clarity and sense to the issue of when an employee is required to be paid overtime. However, she has met a firestorm of opposition from the vested interests in the tyranny of the status quo.

At the moment, there are detailed regulations about who is and who is not required to be paid overtime. For instance, in some cases, workers must be paid 50 percent more for each hour they

work more than 40 hours a week, and, in other cases, there is no requirement to do so.

To understand the madness of underlying law, assume you are a young entrepreneur who has scrimped and saved to open a little cyber-cafe. You have determined you can pay a skilled assistant up to \$20 per hour to help you and keep the shop open when you are not there, and still make a small profit. By the time you have paid all of the required taxes and benefits for the employee, you realize your cost will be \$28 per hour. You find a skilled person who needs and wants the job, but this potential employee needs to make about \$800 dollars a week after taxes to cover his bills and save for college. He agrees to work 50 hours per week, which will give him a gross wage of \$1,000 per week so, after taxes, he would be making a little less than \$800 per week.

But then the U.S. government employment Gestapo steps in and says it is illegal for you to pay him \$20 per hour for 50 hours; you must pay him \$20 per hour for first 40 hours, and \$30 an hour for the last 10 hours. You find you cannot make a profit at that rate because of all the employment taxes you have to pay. It will cost you more than \$30 an hour to employ this individual, who is actually willing and able to work for an after-tax wage of \$17 per hour. The result is: The person who wants the job doesn't get it, your business is less profitable, your customers are less well served for fewer hours a week, and the government gets less tax revenue. Such government policies are economically destructive and an attack on civil society.

The policy is bad enough, but the nonsensical and vague implanting regulations designed for a 1950

economy only serve to enrich trial lawyers at the expense of the rest of us when applied to today's business. For example, take tour operators — a group that is the victim of some six class-action suits.

Some tour directors (the folks who take retirees to nice resorts in beautiful places) have brought suits, claiming they were not paid "overtime" because they say they are really on 24-hour duty, in case one of the tour participants has some "need" in the middle of the night. When thinking about this situation, remember that these tour directors — really the representatives of the tour operators in the field — freely entered into agreements with the tour operators as to how much they would be paid for the job. They do not punch a clock. They knew what the job entailed — besides sitting around the swimming pool at a beautiful resort with a drink.

If the tour directors manage to obtain a much higher wage — from the courts — than the one they freely negotiated, the consequences would be: higher prices for future tours which means fewer people would be able to afford them; lower profits for tour operators meaning some of them would go out of business resulting in less choice for consumers and lower tax revenue for the government; and because there would be fewer tours, there would not be as many jobs for tour directors. The litigation itself is costly.

At this point you might be wondering why the government is telling businesses and employees what they should be paid anyway. In a truly free society, adult employees (or their union or professional association representatives) and employers should be allowed to freely negotiate their own compensation

and working conditions. The courts have ruled in effect that consenting adults can do anything in bed with each other they wish. If we believe our adult population is wise and responsible enough as individuals to figure out how not to get sexually transmitted diseases and not to be physically and emotionally injured from sexual freedom, why are not these same individuals wise and responsible enough to engage in labor agreements without big mother government holding their diapers?

Government, as only a nagging mother, might be tolerable, but the labor laws and other laws needlessly put employers at unnecessary risk diminish our economic well-being and opportunity. The next time you see an unemployment number you believe is too high remember that the natural order of things is for there to be full employment. Sustained unemployment is caused by bad government tax, regulatory, and monetary policies, not by greedy employers and greedy employees.

Politicians love to make employers potential criminals by passing laws the employers cannot understand. The real criminals causing unemployment are the politicians. Perhaps, if we had a law allowing citizens to bring suit against politicians for passing harmful legislation, we would all be safer and more prosperous — but of course, the politicians would never allow themselves to be subject to the risks they gleefully impose on the rest of us.

Richard W. Rahn is a senior fellow of the Discovery Institute and an adjunct scholar of the Cato Institute.