

THE ORANGE COUNTY  
**REGISTER**

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| **MONDAY**, Feb. 13, 2006 |

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# BUSINESS MONDAY

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# Overtime-pay rules depend on job title

**Q.** My husband works for a nursery as a truck driver. According to his supervisor, agriculture employees do not get holiday pay, overtime or time and one-half. What is the law in regard to his position as a truck driver?

**A.** "The answer to your question depends on how your husband's job is identified in his employment manual.

"If your husband is considered an agricultural 'laborer' he can earn overtime pay after working 10 hours per day or on the seventh consecutive day in a workweek," said Keith G. Bremer, partner of Newport Beach office of law firm Bremer

Whyte Brown & O'Meara.

"Overtime pay is at the rate of one and one-half times straight pay after 10 hours per day and for the first eight hours on the seventh consecutive workday in a workweek. After eight hours on the seventh day, the rate is two times straight pay. The 'one day of rest in seven' requirement does not apply.

"State laws exempts farm labor truck drivers from overtime, otherwise mandated by state law. The reason is not to save money, but to save lives and limit the time a driver is on the road for any one period of

time. Therefore, your husband should not be working excessive overtime at all.

"In short, your husband's boss is wrong about agricultural workers. However, he may be correct if it is determined that your husband's position is identified as a 'truck driver.'

"I strongly suggest that you or your husband review the employee's original employment contract and employment handbook to answer these questions. Should you find that he is identified as an agricultural laborer, then I suggest to consult with an attorney to further discuss your options."