

Chapter Ind 74

HOURS OF WORK AND OVERTIME

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History: Chapter Ind 74 as it existed on March 31, 1977 was repealed and a new chapter Ind 74 was created effective April 1, 1977.

Note: Chapter Ind 74 applies to manufactories, mechanical or mercantile establishments, beauty parlors, laundries, restaurants, confectionery stores, telegraph or telephone offices or exchanges or express or transportation establishments and hotels.

Ind 74.01 Definitions. (1) Day means a calendar day or a period of 24 consecutive hours.

(2) Week means a calendar week or a regular reoccurring period of 168 hours in the form of 7 consecutive 24 hour periods.

(3) Regular time means 40 hours of work per week. Except in restaurants regular time means 46 hours per week.

(4) Overtime means hours in excess of 40 hours of work per week. Except in restaurants overtime means hours in excess of 46 hours of work per week.

History: Cr. Register, March, 1977, No. 255, eff. 4-1-77.

Ind 74.02 Hours of work. No person shall be employed or be permitted to work in any place of employment or at any employment for such period or periods of time during any day, night or week as shall be dangerous or prejudicial to the life, health, safety or welfare of such person.

RECOMMENDATION: MEAL PERIODS. It is recommended that each employer allow each employe, 18 years of age or over, at least 30 minutes for each meal period reasonably close to the usual meal period time (6:00 a.m., 12:00 noon, 6:00 p.m. or 12:00 midnight) or near the middle of a shift. Shifts of more than 6 consecutive hours without a meal period should be avoided.

History: Cr. Register, March, 1977, No. 255, eff. 4-1-77.

Note: The above meal period requirements are mandatory for minors under 18 years of age.

Ind 74.03 Overtime pay. Each employer subject to chapter Ind 74 shall pay to each employe time and one-half the regular rate of pay for all hours worked in excess of 46 hours per week. Except in restaurants time and one-half the regular rate of pay shall be paid for all hours worked in excess of 46 hours per week.

History: Cr. Register, March, 1977, No. 255, eff. 4-1-77.

Ind 74.04 Exemptions. Employers subject to chapter Ind 74 shall be exempt from the overtime pay requirements in section 74.03 in respect to the following employes:

(1) Persons whose primary duty consists of administrative, executive or professional work. (a) "Executive" means an employe employed in a bona fide executive capacity who meets the following criteria:

1. Whose primary duty consists of the management of the enterprise in which they are employed or of a customarily recognized department or subdivision thereof; and

2. Who customarily and regularly directs the work of two or more other employes therein; and

3. Who has the authority to hire or fire other employes or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employes will be given particular weight; and

4. Who customarily and regularly exercises discretionary powers; and

5. Who does not devote more than 20%, or in the case of an employe of a retail or service establishment who does not devote as much as 40%, of their hours of work in the workweek of activities which are not directly and closely related to the performance of the work described in subdivision 1 through 4 of this section: PROVIDED, that this paragraph shall not apply in the case of an employe who is in sole charge of an independent establishment or a physically separated branch establishment, or who owns at least a 20% interest in the enterprise in which he is employed; and

6. Who is compensated for their services on a salary basis at a rate of not less than \$700 per month.

(b) "Administrative" means an employe employed in a bona fide administrative capacity who meets the following criteria:

1. Whose primary duty consists of the performance of office or nonmanual work directly related to management policies or general business operations of their employer or their employer's customers, or

2. Who customarily and regularly exercises discretion and independent judgment; and

3. a. Who regularly and directly assists a proprietor, or an employe employed in a bona fide executive or administrative capacity; or

b. Who performs under only general supervision work along specialized or technical lines requiring special training, experience, or knowledge, or

c. Who executes under only general supervision special assignments and tasks; and

4. Who does not devote more than 20%, or in the case of an employe of a retail or service establishment who does not devote as much as 40%, of their hours worked in the workweek to activities which are not directly and closely related to the performance of the work described in subdivisions 1 through 3 of this section; and