

§603. Limits on mandatory overtime

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Employer" means all private and public employers, including the State and political subdivisions of the State. [PL 1999, c. 750, §1 (NEW).]

B. "Overtime" means the hours worked in excess of 40 hours in a calendar week. [PL 1999, c. 750, §1 (NEW).]
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2. Limits on mandatory overtime. An employer may not require an employee to work more than 80 hours of overtime in any consecutive 2-week period.

[PL 1999, c. 750, §1 (NEW).]

3. Exceptions. This section does not apply to:

A. Work performed in response to an emergency declared by the Governor under the laws of the State; [PL 1999, c. 750, §1 (NEW).]

B. An employee who performs essential services for the public. For purposes of this paragraph, "essential services" means those services that are basic or indispensable and are provided to the public as a whole, including, but not limited to, utility service, snowplowing, road maintenance and telecommunications service; [PL 1999, c. 750, §1 (NEW).]

C. An employee whose work is necessary to protect the public health or safety, when the excess overtime is required outside the normal course of business; [PL 1999, c. 750, §1 (NEW).]

D. An individual exempt from the definition of employee in section 663, subsection 3, paragraph A, C, F, G, I or J; [PL 2007, c. 640, §1 (AMD).]

E. A salaried employee who works in a bona fide executive capacity and whose regular compensation, when converted to an annual rate, exceeds 3000 times the State's minimum hourly wage; [PL 1999, c. 750, §1 (NEW).]

F. An employee of a seasonal employer. For purposes of this paragraph, "seasonal employer" means an employer in an industry that operates in a regularly recurring period or periods of less than 26 weeks in a calendar year; [PL 1999, c. 750, §1 (NEW).]

G. A medical intern or resident engaged in a graduate educational program approved by the Accreditation Council on Graduate Medical Education, the American Board of Medical Specialties or the American Osteopathic Association at a health care facility. For purposes of this paragraph, "health care facility" has the same meaning as in Title 22, section 8702, subsection 4; or [PL 1999, c. 750, §1 (NEW).]

H. An employee who works for an employer who shuts down an operation for annual maintenance or work performed in the construction, rebuilding, maintenance or repair of production machinery and equipment, including machine start-ups and shutdowns related to such activity. This exception applies to contractors of the employer that are providing services related to the activities in this paragraph. It does not apply to other operations not involved in the work stated in this paragraph. Notwithstanding this paragraph, a worker may not be required to work beyond the limits prescribed in subsection 2 for more than 4 consecutive weeks. [PL 1999, c. 750, §1 (NEW).]

[PL 2007, c. 640, §1 (AMD).]

4. Lower limit by agreement. Employers and employees may agree to limit mandatory overtime to fewer hours than provided for in this section.

[PL 1999, c. 750, §1 (NEW).]

5. Exception for nurse. Notwithstanding subsection 2, a nurse may not be disciplined for refusing to work more than 12 consecutive hours. A nurse may be disciplined for refusing mandatory overtime in the case of an unforeseen emergent circumstance when overtime is required as a last resort to ensure patient safety. Any nurse who is mandated to work more than 12 consecutive hours, as permitted by this section, must be allowed at least 10 consecutive hours of off-duty time immediately following the worked overtime.

This subsection does not apply to overtime for performance of services described in subsection 3, paragraph A or C.

[PL 2001, c. 401, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 750, §1 (NEW). PL 2001, c. 401, §1 (AMD). PL 2007, c. 640, §1 (AMD).

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