

EMPLOYMENT LAW SUMMARY

Kansas: Overtime Wage Payment Laws



Because You're Different

Federal overtime wage payment requirements are governed by the Fair Labor Standards Act (FLSA). The FLSA requires employers to compensate their employees with one and one-half their regular wage rate for all hours worked in excess of 40 hours in a workweek. In Kansas, overtime wage payment requirements are governed by the Kansas Minimum Wage and Maximum Hours Law (KMWMHL).

The [Kansas Department of Labor](#) (KDOL) enforces overtime standards throughout the state.

Overtime Pay

The KMWMHL applies to individuals who are not covered by the FLSA and requires employers to compensate their employees with one and one-half times their regular wage rate for any overtime hours worked.

In Kansas, overtime hours are hours worked in excess of **46 hours** in a workweek. The hours an employee works during one workweek cannot be averaged with the hours worked on any other workweek.

Calculating the Regular Rate of Pay

An employee's regular rate is the actual rate of pay he or she receives for a standard, non-overtime workweek. Employers must calculate their employees' regular rate before they can determine applicable overtime wages. An employee's regular rate can vary from week to week and may be different from the employee's contractual rate of pay.

To calculate an employee's regular rate for a specific work period, employers must divide the employee's entire compensation for a workweek by the number of hours the employee worked during that period.

An employee's entire compensation is all compensation paid to the employee. Typically, total compensation includes the employee's hourly rate, shift differential, minimum wage tip credit, non-discretionary bonuses, production bonuses and commissions, but does not include:

- Business expenses;
- Bona fide gifts;
- Discretionary bonuses;
- Employer investment contributions; and
- Payments for non-working hours (for example, pay for vacation, sick leave or jury duty).

A workweek in Kansas is a fixed period of 168 hours, or seven consecutive 24-hours days. The workweek can begin on any day of the week and at any hour of the day, without coinciding with a calendar week.

To determine the number of hours an employee works during a workweek, the employer must consider any time during which the employee was subject to the employer's control. Usually, hours of work includes any time the employee is:

- Allowed to work (regardless of whether he or she is required to work);

- Waiting for a job assignment;
- Waiting to begin work;
- Cleaning or performing other “off the clock” duties; and
- Traveling under the request, control or direction of the employer (excluding normal commuting time to and from work).

Exemptions from Overtime Payment Laws

Kansas overtime wage provisions do not apply to:

- Individuals covered by the FLSA;
- Individuals who are primarily engaged in selling motor vehicles;
- Inmates of county jails or other correctional facilities;
- Individuals working as attendants in the public or private delivery of emergency medical services; or
- Individuals engaged in fire protection or law enforcement activities (including security personnel in any correctional institution).

The exemption for individuals engaged in fire protection or law enforcement is limited to the first **258 hours** of work during a 28-day work period. Employers must compensate fire protection and law enforcement personnel at one and one-half their regular wage rate for any hours worked in excess of 258 hours during the 28-day work period.

In addition, when calculating hours of work for fire protection and law enforcement personnel, employers are not required to include the hours worked by one employee when substituting for another if:

- The employee volunteers to substitute for another (not at the employer’s request);
- The employee volunteers because of a desire or need to attend a personal matter (not due to the employer’s business practice);
- The employer maintains a record of all substitution work hours; and
- The period during which time is substituted and paid back does not exceed 12 months.

More Information

Contact Heffernan Insurance Brokers for more information on wage payment and work hour laws in Kansas.

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