

# **Kansas Administrative Regulations**

## **Department of Labor**

### **Article 30.—Minimum Wage and Maximum Hours**

#### **49-30-1. Definitions.**

The definitions herein contained are in addition to those expressed in K.S.A. 1977 Supp. 44-1201 through 44-1213:

(a) "Wage" means money due an employee from an employer whether determined on a time, task, piece rate, commission, bonus, or other basis.

(b) "Allowances" mean items that by these regulations may be credited in whole or in part to "wages" due an employee.

(c) "Workweek" means any period of time consisting of seven (7) consecutive days or one hundred sixty-eight (168) hours. The beginning of such period shall be at the discretion of the employer. In the case of employees who work in fire protection agencies or law enforcement agencies, a work period of not less than seven (7) days or more than twenty-eight (28) days may be established at the discretion of the employer.

(d) "Designated time" means the actual time the employee is required to report at a designated location regardless of whether a job assignment is made after the employee has reported.

(e) "Employer" means the state of Kansas and any county, city, improvement district, township, school district, or other forms of public administration.

(f) "Employee" means an individual employee who performs work not covered under the fair labor standards act of 1938 (29 U.S.C.A. § 201 *et seq.*, as amended) regardless of whether or not other employees of the same employer perform work covered under the fair labor standards act of 1938.

(g) "Agriculture" means an operation cultivating the soil, or the harvesting of crops, or the raising and feeding of livestock, bees, fur-bearing animals, fish, poultry, or the preparation, packing, packaging or transporting to market of crops or products when such is an integral part of the ordinary agricultural operations.

(h) "Domestic service" means an individual employed by an owner or tenant in a private home to clean, repair or maintain the private home or the property on which the private home is located, but does not include an individual employed by a person contracting to perform the service.

(i) "Executive" means:

(1) any individual who owns at least twenty (20) percent interest in the enterprise and is in sole charge of an independent establishment or a physically separated branch establishment; or

(2) an individual employed in the capacity of an executive paid in excess of one hundred fifty-five dollars (\$155) per week and who does not devote more than twenty (20) percent, (forty (40) percent in the case of employees in a retail or service establishment) of his or her hours of work in a workweek to employment activities which are included in the coverage of these regulations.

(j) "Administrative capacity" means an individual employed in an administrative position, public or otherwise, when performance is of office or nonmanual work directly related to office management policies, or general business operations when:

(1) such individual supervises at least two (2) other employees; and

(2) does not devote more than twenty (20) percent (forty (40) percent in case of employees in retail or service establishments), of his or her hours of work in a workweek to employment activities which are included in the coverage of these regulations;

(3) performs functions in the administration of a school system, educational establishment or institution, where the work is directly related to academic instruction or training;

(4) an individual who exercises discretion and independent judgment regularly and directly to assist a bona fide executive or administrative person as herein defined, and is subject to the same qualifying requirements.

(k) "Professional capacity" means an individual so employed which:

(1) Requires advanced scientific knowledge and learning, customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education.

(2) Requires work of an original, creative nature, using invention, imagination, and talent of the employee.

(3) Requires the individual to teach, tutor, instruct or lecture.

(4) Requires consistent exercise of discretion and judgment and is of such character that the work product cannot be standardized in relation to a given period of time.

(5) Does not devote more than twenty (20) percent of hours worked in a workweek to activities which are not an essential and necessary incident to the work and who is paid at least one hundred seventy dollars (\$170) per week.

(l) "Outside commission paid salesman" means a salesperson who is customarily and regularly engaged away from his or her employer's place(s) of business while making sales, obtaining orders, or contracts for services, merchandise, or facilities for which a consideration is paid by the customer, and who does not devote more than twenty (20) percent of his or her work hours in a workweek to employment activities covered by these regulations.

(m) "Service gratuitously for a nonprofit organization" means performing services gratuitously on a voluntary basis which is not directly related to the primary job functions within his or her own employing agency and such is performed for:

(1) A nonprofit organization that is subject to the approval of the federal internal revenue service or the secretary of state.

(2) A public employer, including fire protection or law enforcement employee, when such individual employee responds to the call of need of a mutual neighboring jurisdiction.

(3) A public employer who pays an employee a reasonable expense allowance for such services and the amount of expense payment does not exceed seven dollars and fifty cents (\$7.50) per call.

(n) "Occasional or part-time basis" means hours worked shall not be forty hours or more per week. Students eighteen (18) years of age and under working between academic terms when school is not in session shall not be considered to be covered by the act regardless of the number of hours worked. Individuals nineteen (19) years of age through fifty-nine (59) years of age shall be covered by the provisions of the minimum wage and maximum hours law regardless of the number of hours worked.

(o) "Handicapped workers" means a person disadvantaged by reason of age, physical or mental disability.

(p) "Patient laborers" means a person confined to a state institution or hospital who, under the orders of a doctor, has been assigned to perform services within such state institution or hospital which are considered rehabilitative or therapeutic in nature.

(q) "Learners and apprentices" means an employee who is employed in a progressively more difficult, learning or working process, on the job, which is not part of a formal program recognized under the Kansas apprenticeship council or bureau of apprenticeship and training.

(r) "Tips and gratuities customarily constitute part of the remuneration," means an employee has received tips and gratuities in a calendar month which exceed twenty dollars (\$20).

(Authorized by K.S.A. 1978 Supp. 44-1202, 44-1203, 44-1207; effective, E-79-26, Oct. 19, 1978; effective May 1, 1979.)

\*\*\*\*\* Authenticated Kansas Administrative Regulation \*\*\*\*\*