

## **“Article 5. Hours of Labor”**

### **Title 1. General**

#### **New York Consolidated Laws, Labor Law - LAB § 160. Hours to constitute a day's work**

Unless otherwise provided by law, the following number of hours shall constitute a legal day's work:

1. For street surface or elevated railroad employees as affected by [section one hundred and sixty-four](#) , ten consecutive hours, including one-half hour for dinner.
2. For employees engaged in the operation of steam or electric surface, subway or elevated railroads where the mileage system of running trains is not in use, except those employees affected by [section one hundred and sixty-six](#) , ten hours, performed within twelve consecutive hours.
3. For all other employees, except those engaged in farm work and those affected by [subdivision four of section two hundred twenty](#) of this chapter, eight hours.

This subdivision shall not prevent an agreement for overwork at an increased compensation, except upon work by or for the state or a municipal corporation, or by contractors or subcontractors therewith, and except as otherwise provided in this chapter.

#### **New York Consolidated Laws, Labor Law - LAB § 161. One day rest in seven**

1. Every employer operating a factory, mercantile establishment, hotel, restaurant, or freight or passenger elevator in any building or place shall, except as herein otherwise provided, allow every person employed in such establishment or in the care, custody or operation of any such elevator, at least twenty-four consecutive hours of rest in any calendar week. Every employer operating a place in which motion pictures are shown shall allow the projectionist or operator of the motion picture machine and engineers and firemen therein at least twenty-four consecutive hours of rest in any calendar week. Every employer operating a place in which legitimate theatre productions such as dramatic and musical productions are shown or exhibited shall allow all employees, including the performers in the cast therein and engineers and firemen, at least twenty-four consecutive hours of rest in each and every calendar week, but this shall not apply to any place wherein motion pictures, vaudeville or incidental stage presentations or a combination thereof are regularly given throughout the week as the established policy of such place; except that engineers and firemen employed in such place shall be allowed at least twenty-four consecutive hours of rest in any calendar week. No employer shall operate such establishment, place or elevator on Sunday unless he shall comply with subdivision three. This section does not authorize any work on Sunday not permitted now or hereafter by law.

Every owner, lessee and operator of a dwelling, apartment, loft and office building, garage, storage place and building, wherein or whereat a watchman or watchmen or engineer or fireman are employed, shall allow such person or persons so employed at least twenty-four consecutive hours of rest in each and every calendar week.

Every owner, lessee or operator of a warehouse, storagehouse, office, dwelling, apartment, loft and any other building or structure wherein a janitor, superintendent, supervisor or manager or engineer or fireman is employed, shall allow such person or persons so employed at least twenty-four consecutive hours of rest in each and every calendar week.

Every person employed as a domestic worker as defined in [subdivision sixteen of section two](#) of this chapter, shall be allowed at least twenty-four consecutive hours of rest in each and every calendar week. No provision of this paragraph shall prohibit a domestic worker from voluntarily agreeing to work on such day of rest required by this paragraph, provided that the worker is compensated at the overtime rate for all hours worked on such day of rest. The day of rest authorized under this subdivision should, whenever possible, coincide with the traditional day reserved by the domestic worker for religious worship. In addition, after one year of work with the same employer a domestic worker shall be entitled to at least three days of rest in each calendar year at the regular rate of compensation.

2. This section shall not apply to:

- a. Foreman in charge;
- b. Employees in dairies, creameries, milk condenseries, milk powder factories, milk sugar factories, milk shipping stations, butter and cheese factories, ice cream manufacturing plants and milk bottling plants, where not more than seven persons are employed;
- c. Employees, if the board in its discretion approves, engaged in an industrial or manufacturing process necessarily continuous, in which no employee is permitted to work more than eight hours in any calendar day;
- d. Employees whose duties include not more than three hours' work on Sunday in setting sponges in bakeries, caring for live animals, maintaining fires, or making necessary repairs to boilers or machinery.
- e. Employees in resort or seasonal hotels and restaurants in rural communities and in cities and villages having a population of less than fifteen thousand inhabitants, excluding that portion of the population of a third class city residing outside of its corporation tax district where such city embraces the entire area of a former township. As used in this subdivision, the term "resort" shall apply to any establishment enumerated herein which operates for not more than four calendar months and fifteen days in each year, and the term "seasonal" shall apply to any establishment enumerated herein in which the number of employees is increased by at least one hundred per cent from the slack to the busiest season.
- f. Employees in dry dock plants engaged in making repairs to ships.

3. Before operating on Sunday, every employer shall designate a day of rest, consisting of at least twenty-four consecutive hours of rest in each and every calendar week for each employee, and shall notify each employee in advance of his or her designated day of rest. No employee shall be permitted to work on his designated day of rest.
4. Every employer shall keep a time book showing the names and addresses of his employees and the hours worked by each of them in each day.
5. If there shall be practical difficulties or unnecessary hardship in carrying out the provisions of this section or the rules promulgated hereunder, the commissioner may make a variation therefrom if the spirit of the act be observed and substantial justice done. Such variation shall describe the conditions under which it shall be permitted and shall apply to substantially similar conditions. A properly indexed record of variations shall be kept by the department.
6. In case of violation of any of the provisions of this section, the commissioner shall issue an order directing compliance therewith, and upon failure so to comply shall commence a prosecution as provided by law.

**New York Consolidated Laws, Labor Law - LAB § 162. Time allowed for meals**

1. Every person employed in or in connection with a factory shall be allowed at least sixty minutes for the noon day meal.
2. Every person employed in or in connection with a mercantile or other establishment or occupation coming under the provisions of this chapter shall be allowed at least thirty minutes for the noon day meal, except as in this chapter otherwise provided. The noon day meal period is recognized as extending from eleven o'clock in the morning to two o'clock in the afternoon. An employee who works a shift of more than six hours which extends over the noon day meal period is entitled to at least thirty minutes off within that period for the meal period.
3. Every person employed for a period or shift starting before eleven o'clock in the morning and continuing later than seven o'clock in the evening shall be allowed an additional meal period of at least twenty minutes between five and seven o'clock in the evening.
4. Every person employed for a period or shift of more than six hours starting between the hours of one o'clock in the afternoon and six o'clock in the morning, shall be allowed at least sixty minutes for a meal period when employed in or in connection with a factory, and forty-five minutes for a meal period when employed in or in connection with a mercantile or other establishment or occupation coming under the provisions of this chapter, at a time midway between the beginning and end of such employment.
5. The commissioner may permit a shorter time to be fixed for meal periods than hereinbefore provided. The permit therefor shall be in writing and shall be kept conspicuously posted in the main entrance of the establishment. Such permit may be revoked at any time.

**New York Consolidated Laws, Labor Law - LAB § 163. Hours of labor in brickyards**

No corporation owning or operating a brickyard shall require employees to work more than ten hours in any day, or to commence work before seven o'clock in the morning. But overwork and work prior to seven o'clock in the morning for extra compensation may be performed by agreement between employer and employee.

**New York Consolidated Laws, Labor Law - LAB § 164. Hours of labor on street railroads**

No employee engaged in the operation of a street surface or elevated railroad of whatever motive power owned or operated by a corporation whose main line or route of travel lies principally within a city of the first or second class, shall be employed more than ten consecutive hours, including one-half hour for dinner, in any day, except that in cases of accident or unavoidable delay extra work may be performed for extra compensation.

**New York Consolidated Laws, Labor Law - LAB § 165. Steam and other railroads**

1. No person or corporation operating a steam or electric surface, subway or elevated railroad of thirty miles or more in length, wholly or partly within this state, except where the mileage system of running trains is in operation, shall permit or require a conductor, engineer, fireman, trainman, motorman or assistant motorman, engaged in or connected with the movement of any train on such railroad, to be or remain on duty for a longer period than sixteen consecutive hours. Whenever any such employee shall have been continuously on duty for sixteen hours he shall not be required or permitted again to go on duty until he has had at least ten consecutive hours off duty. No such employee who has been on duty sixteen hours in the aggregate in any twenty-four hour period shall be required or permitted to continue or again go on duty without having had at least eight consecutive hours off duty.

2. This section shall not apply to any such employee when he is prevented from reaching his terminal by casualty occurring after he has started on his trip or by accident to or unexpected delay of trains scheduled to make connection with the train on which he is serving, or when he is engaged in interstate commerce.

**New York Consolidated Laws, Labor Law - LAB § 166. Signalmen**

1. When used in this section "signalman" means:
  - a. A telegraph or telephone operator reporting trains to another office or to a train dispatcher;
  - b. A telegraph or telephone leverman who manipulates interlocking machines in railroad yards or on main tracks on the lines;
  - c. A train dispatcher whose duties pertain to the movement of cars, engines or trains, by telegraph or telephone in dispatching or reporting trains or receiving or transmitting train orders.

2. When used in this section “railroad” means: any portion of a surface, subway or elevated railroad situated wholly or partly in this state and operated by a corporation or receiver on which portion at least twenty freight trains on the average or nine regular passenger trains pass each way in every twenty-four hours.
3. No signalman shall be employed on any railroad for more than eight hours in any day except in cases of extraordinary emergency caused by accident, fire, flood or danger to life or property and he shall be paid for each hour of such overtime at least one-eighth of his daily compensation.
4. Every signalman and every towerman or gateman performing duties similar to those of a signalman, who is employed for eight hours or more every day shall be allowed at least two days of rest of twenty-four hours each in every calendar month with the regular compensation, except in cases of extraordinary emergency caused by accident, fire, flood, or danger to life or property, when in addition to his regular compensation he shall be paid for every hour so employed at least one-eighth of his daily compensation.
5. The provisions of this section shall not apply to employees engaged in interstate commerce.

**New York Consolidated Laws, Labor Law - LAB § 167. Restrictions on consecutive hours of work for nurses**

1. When used in this section:
  - a. “Health care employer” shall mean any individual, partnership, association, corporation, limited liability company or any person or group of persons acting directly or indirectly on behalf of or in the interest of the employer, which provides health care services (i) in a facility licensed or operated pursuant to article twenty-eight of the public health law, including any facility operated by the state, a political subdivision or a public corporation as defined by [section sixty-six of the general construction law](#) , or (ii) in a facility operated by the state, a political subdivision or a public corporation as defined by [section sixty-six of the general construction law](#) , operated or licensed pursuant to the mental hygiene law, the education law or the correction law.
  - b. “Nurse” shall mean a registered professional nurse or a licensed practical nurse as defined by article one hundred thirty-nine of the education law who provides direct patient care.
  - c. “Regularly scheduled work hours”, including pre-scheduled on-call time and the time spent for the purpose of communicating shift reports regarding patient status necessary to ensure patient safety, shall mean those hours a nurse has agreed to work and is normally scheduled to work pursuant to the budgeted hours allocated to the nurse's position by the health care employer; and if no such allocation system exists, some other measure generally used by the health care employer to determine when an employee is minimally supposed to work, consistent with the collective bargaining agreement, if any. Nothing in this section shall be construed to permit an employer to use on-call time as a substitute for mandatory overtime.

2. a. Notwithstanding any other provision of law no health care employer shall require a nurse to work more than that nurse's regularly scheduled work hours, except pursuant to subdivision three of this section.
- b. Nothing in this section shall prohibit a nurse from voluntarily working overtime.
3. The limitations provided for in this section shall not apply in the case of:
  - a. a health care disaster, such as a natural or other type of disaster that increases the need for health care personnel, unexpectedly affecting the county in which the nurse is employed or in a contiguous county; or
  - b. a federal, state or county declaration of emergency in effect in the county in which the nurse is employed or in a contiguous county; or
  - c. where a health care employer determines there is an emergency, necessary to provide safe patient care, in which case the health care provider shall, before requiring an on-duty employee to remain, make a good faith effort to have overtime covered on a voluntary basis, including, but not limited to, calling per diems, agency nurses, assigning floats, or requesting an additional day of work from off-duty employees, to the extent such staffing options exist. For the purposes of this paragraph, "emergency", including an unanticipated staffing emergency, is defined as an unforeseen event that could not be prudently planned for by an employer and does not regularly occur; or
  - d. an ongoing medical or surgical procedure in which the nurse is actively engaged and whose continued presence through the completion of the procedure is needed to ensure the health and safety of the patient.
4. The provisions of this section are intended as a remedial measure to protect the public health and the quality of patient care, and shall not be construed to diminish or waive any rights of any nurse pursuant to any other law, regulation, or collective bargaining agreement.

**New York Consolidated Laws, Labor Law - LAB § 168. Hours of labor of certain state employees**

1. This section shall apply to all persons employed by the state in the ward, cottage, colony, kitchen and dining room, and guard service personnel in any hospital, school, prison, reformatory or other institution within or subject to the jurisdiction, supervision, control or visitation of the department of corrections and community supervision, the department of health, the department of mental hygiene, the department of social welfare or the division of veterans' affairs in the executive department, and engaged in the performance of such duties as nursing, guarding or attending the inmates, patients, wards or other persons kept or housed in such institutions, or in protecting and guarding the buildings and/or grounds thereof, or in preparing or serving food therein.

2. No person to whom this section is applicable shall be required to work more than eight hours in any day or more than forty hours or more than six days in any calendar week except in cases of fire, riot, flood, famine, pestilence or other cases of emergency endangering life or property; provided, however, that any such person, upon his own request and with the approval of the head of the institution in which he is employed, may be permitted to work one additional eight-hour day in any calendar week for not more than seven calendar weeks and be allowed continuous days free from duty equivalent to the number of additional days so worked. The provisions of this section shall not be interpreted to increase the number of working hours per day or the number of working days per week of any person for whom a shorter work-day or work-week is now provided.

**New York Consolidated Laws, Labor Law - LAB § 169. One day of rest for certain state employees**

Every person employed by the state, upon its canal system in the maintenance or operation of bridges, locks or other works or structures which are part of such system, shall be allowed and permitted a period of at least twenty-four consecutive hours of rest in each calendar week. No person shall, by reason of the provisions of this section, receive any reduction in the total weekly compensation paid him.

**New York Consolidated Laws, Labor Law - LAB § 169-a. One day of rest for state employees**

No person employed by the state shall be required to work more than six days in any calendar week, except in cases of fire, riot, flood, famine, pestilence or other cases of emergency endangering life or property; provided, however, that any such person, upon his own request and with the approval of the head of the department or institution in which he is employed, may be permitted to work one additional day in any calendar week for not more than seven calendar weeks and be allowed continuous days free from duty equivalent to the number of additional days so worked. No person shall, by reason of the provisions of this section, receive any reduction in the total weekly compensation paid him. This section shall not apply to officers and members of the state police force.

**New York Consolidated Laws, Labor Law - LAB § 170. Hours of labor for domestic workers**

No person or corporation employing a domestic worker as defined in [subdivision sixteen of section two](#) of this chapter, shall require any domestic worker to work more than forty hours in a week, or forty-four hours in a week for domestic workers who reside in the home of their employer; unless they receive compensation for overtime work at a rate which is at least one and one-half times the worker's normal wage rate.