



Municipal Technical Advisory Service
INSTITUTE *for* PUBLIC SERVICE

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Sleep Time

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](http://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

The University of Tennessee
Municipal Technical Advisory Service
1610 University Avenue
Knoxville, TN 37921-6741
865-974-0411 phone
865-974-0423 fax
www.mtas.tennessee.edu

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“Under certain conditions an employee is considered to be working even though some of his/her time is spent sleeping.” 29 C.F.R. § 785.20. The regulations provide for two general policies regarding sleeping time. The first is for employees whose tour of duty is less than 24 hours. The other is for those employees who tour of duty is 24 hours or more.

For an employee whose tour of duty is less than 24 hours, periods during which the employee is permitted to sleep are compensable working time, as long as the employee is on duty and must work when required. For example, a telephone operator who is required to be on duty for specified hours is working even though the employee is permitted to sleep when not busy answering calls. It makes no difference whether the employee is furnished facilities for sleeping or not. The employee’s time is controlled by the employer. The employee is required to be on duty and working, thus, the time is work time. 29 C.F.R. § 785.21.

“When an employee’s tour of duty is longer than 24 hours, up to eight hours of sleep time can be excluded from compensable working time.” 29 C.F.R. § 785.22(a) The regulations provide that the eight hours of sleep time are excluded if:

1. An expressed or implied agreement excluding sleeping time exists (where no expressed or implied agreement to the contrary is present, the 8 hours of sleeping time and lunch periods constitute hours worked).
2. Adequate sleeping facilities for an uninterrupted night’s sleep are provided
3. At least five hours of sleep are possible during the scheduled sleeping periods
4. Interruptions to perform duties are considered hours worked.

There also are special rules for police officers and firefighters who are compensated under the § 207(k) exemption of the act. “For sleep time to be excluded for such employees, they must work a shift of more than 24 hours.” 29 C.F.R. § 553.222(c). Therefore, a tour of duty of 24 hours and 10 minutes is sufficient to constitute “more than 24 hours on duty.” “If the sleep period is longer than eight hours, only eight hours of sleep time can be credited.” 29 C.F.R. § 785.22(a). The regulations provide that “the five hours of sleep do not have to be consecutive and that sleep time does not necessarily have to be at night. Additionally, there must be a voluntary agreement between the employer and employees excluding sleep time. Without an agreement the sleep time must be counted as hours worked.” 29 C.F.R. § 785.22(a).

If the sleep period is interrupted by a call to duty, the interruption must be counted as hours worked. “If the sleep period is interrupted so frequently that the employee cannot get a reasonable night’s sleep (5 hours), then the entire period must be counted as working time.” 29 C.F.R. § 553.222(b).

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