



## Law Enforcement Officer

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Dear Reader:

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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,

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**Reference Number:** MTAS-2098

### **Definition of Employees Covered by 207(k) - Law Enforcement Officer**

To be covered by the 207(k) exemption for law enforcement officer, “an employee, regardless of rank or status as trainee, probationary or permanent, must meet all the criteria established by statute.” 29 C.F.R. § 553.211(a):

1. Be a uniformed or plainclothes member of a body of officers and subordinates;
2. Be empowered by status or local ordinance to enforce laws designed to maintain public peace and order, protect life and property from accident or willful injury, and prevent and detect crimes;
3. Have the power to arrest; and
4. Have participated in a special course of instruction or study (or will undergo on-the-job training), which typically includes self-defense, physical training, firearm proficiency, criminal and civil law principles, investigative and law enforcement techniques, community relations, medical aid and ethics.

“Employees who meet the test are considered ‘engaged in law enforcement activities’ regardless of their rank or their status as trainee, probationary, or permanent employees. Law enforcement employees also meet the test regardless of their being assigned to incidental duties, such as equipment maintenance and lecturing.” 29 C.F.R. § 553.211(b).

“Not eligible for the 207(k) exemption are civilian police department employees who engage in support activities such as dispatchers, radio operators, apparatus and equipment maintenance and repair workers, janitors, clerks and stenographers” (Wage and Hour Opinion, August 21, 1987). “The exemption also does not cover employees in correctional institutions who engage in building repair and maintenance, culinary services, teaching, or psychological, medical and paramedical services.” 29 C.F.R. § 553.211(g). Others not meeting the exemption test also include animal control personnel, civilian traffic employees who direct vehicular and pedestrian traffic at specified intersections or other controlling points, civilian parking checkers who patrol assigned areas for the purpose of discovering parking violations and issuing appropriate warnings or appearance notices, and building guards whose primary duty is to protect the lives and property of persons within the limited area of the building. 29 C.F.R. § 553.211(e).

Some public agencies employ public safety officers who serve as both law enforcement and fire protection personnel. The dual assignment will not defeat the 207(k) or 213(b)(20) exemption provided that the activities performed meet the definition of fire protection or law enforcement. The combined duties should make up at least 80 percent of the employee’s duties. FLSA regulation 29 C.F.R. § 553.213(b) provides that “for employees performing both fire protection and law enforcement activities, the applicable standard is the one that applies to the activity in which the employee spends the majority of work time during the work period.”

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