

5200.0170 WORKWEEK.

Subpart 1. **Definition.** The period of time used for determining compliance with the minimum wage rate, overtime compensation, and designation as a part-time employee is the workweek, which is defined as a fixed and regularly recurring period of 168 hours, seven consecutive 24-hour periods. This is true whether the employee is paid on an hourly, piecework, commission, or any other basis. Once the workweek is established, it remains fixed, although it may be changed if the change is intended as permanent rather than as an evasion of the overtime provisions. If no workweek is designated, it shall follow the calendar week.

The commissioner of labor and industry may upon receiving application made by an employer establish a different period of time to be used as workweek for purposes of this part.

Subp. 2. **Excessive workweeks.** No employer shall be deemed to have violated Minnesota Statutes, section 177.25, subdivision 1 by employing any employee of a retail or service establishment for a workweek in excess of the applicable workweek specified therein, if:

A. the regular rate of pay of such employee is in excess of 1-1/2 times the minimum hourly rate applicable to him or her under Minnesota Statutes, section 177.24; and

B. more than half the compensation for a representative period (not less than one month) represents commissions on goods or services.

In determining the proportion of compensation representing commissions, all earnings resulting from the application of a bona fide commission rate shall be deemed commissions on goods or services without regard to whether the computed commissions exceed the draw or guarantee.

Statutory Authority: *MS s 177.28*

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