

THE WAGE FOR OVERTIME MAY BE COMPUTED ON THE BASIS OF EACH HOUR OVER 48 HOURS THAT AN EMPLOYEE WORKS DURING 1 WORKWEEK:

- (1) FOR AN EMPLOYEE OF A BOWLING ESTABLISHMENT; AND
- (2) FOR AN EMPLOYEE OF AN INSTITUTION THAT:
 - (I) IS NOT A HOSPITAL; BUT
 - (II) IS ENGAGED PRIMARILY IN THE CARE OF INDIVIDUALS

WHO:

1. ARE AGED, MENTALLY RETARDED, OR SICK OR HAVE A MENTAL DISORDER; AND
2. RESIDE AT THE INSTITUTION.

REVISOR'S NOTE: This section is new language derived without substantive change from items (f), (j), and (k), the second clause of item (c), and, as it referred to the computation of overtime, the introductory language of former Art. 100, § 83(3).

In subsection (b) of this section, the word "theatre", which formerly modified the words "craft or trade employees", is deleted as misleading since subsection (b) also applies to employees of concert promoters, music festivals, and music pavilions.

As to the overtime provisions of the federal Act and exemptions for employees engaged in farm work, see 29 U.S.C. §§ 207(m) and 213(a)(6) and (b)(12) and (13). However, it did not seem that the General Assembly intended, in subsection (c) of this section, to include a reference to 29 U.S.C. § 213(a)(6), since nearly identical language, in former Art. 100, § 82(e)(1), excluded certain employees engaged in farm work from any of the provisions of former Art. 100, §§ 81 through 93A. See § 3-403(b) of this subtitle.

The Labor and Employment Article Review Committee notes, for consideration by the General Assembly, that federal law is based on an "8 and 80 rule", which allows computation of overtime for a 2-week period. The Committee believes that most employers are unaware of the specific and divergent provisions revised in this section and, instead, honestly but mistakenly believe that they are satisfying both the State and federal law by following the "8 and 80 rule". Compare Art. 88A, § 17A-2(c), which limits the hours a recipient of public assistance may be required to work on a public job to 40 hours per week or 8 hours per day, and Art. 100, § 76, which provides that, generally, overtime for a State employee shall be computed on the basis of hours worked in excess of 40 hours per week. The Committee notes that, under Art. 100, § 76(a)(3), overtime for a State employee in a hospital or care facility is based on the "8 and 80 rule".