

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DIVISION OF WORKFORCE REGULATION AND SAFETY

RULES AND REGULATIONS RELATING TO
EXEMPTIONS FOR WORK ON HOLIDAYS AND SUNDAYS

Public Notice of Proposed Rule-Making

The Division of Workforce Regulation within the Rhode Island Department of Labor and Training, under the authority granted by Chapter 3 of Title 25 of the General Laws of Rhode Island, 1956, as amended, adopts, amends, modifies and rejects general and special rules and regulations under Chapter 35 of Title 42 of the General Laws of Rhode Island, as amended, and proposes the following amendments:

The proposed amendment adds Regulation 12, which exempts private security guard businesses licensed under R.I.G.L. § 5-5.1-1 et seq., from the requirement of paying employees time and one half on Sundays and holidays.

The proposed amendment will be available for public examination on the Rhode Island Department of Labor and Training's website at the following address: <http://www.dlt.ri.gov/>, in person at the Rhode Island Department of Labor & Training, 1511 Pontiac Avenue, Cranston, RI 02920 between the hours of 9:00 a.m. and 3:00 p.m., requested by mail addressed to Joseph Degnan, Assistant Director, Department of Labor and Training, 1511 Pontiac Avenue, Cranston, RI 02920, or by calling 401-462-8000.

In the development of the proposed rule, consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small businesses. Based on available information, no significant economic impact was identified nor are there any alternative approaches, duplications or overlaps with other state regulations.

All interested parties are invited to submit written or oral comments concerning the proposed amendment within thirty (30) days of the date of publication of this notice. The comments should be addressed to Joseph Degnan, Assistant Director, Department of Labor and Training, 1511 Pontiac Avenue, Cranston, RI 02920, or 401-462-8000.

A public hearing, in accordance with Rhode Island General Law, Section 42-35-3, to consider the proposed amendments shall be held on Tuesday, January 6th, 2015 from 2:00 pm to 3:00 pm at the RI Department of Labor and Training, Building 73-1, 1511 Pontiac Avenue,

Cranston, RI 02920 at which time and place all persons interested therein will be heard. The place of the public hearing is accessible to the handicapped. If communication assistance (readers/ interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call 401-462-8000 or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

Date Notice was Posted: November 25, 2014

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EXEMPTIONS FOR WORK ON HOLIDAYS AND SUNDAYS

Concise Summary of Proposed Non-Technical Amendments to
Rules and Regulations Relating to Exemptions for Work on Holidays and Sundays

In accordance with the Administrative Procedures Act, Section 42-35-3(a)(1) of the General Laws of Rhode Island, following is a concise summary of proposed non-technical amendment:

Regulation 12)

The amendment exempts private security guard businesses licensed under R.I.G.L. § 5-5.1-1 et seq., from the requirement of paying employees time and one half on Sundays and holidays.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
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**RULES AND REGULATIONS RELATING TO PREMIUM PAY
EXEMPTIONS FOR WORK ON HOLIDAYS AND SUNDAYS**

As Amended: January 2015

1. Pursuant to R.I.G.L. §25-3-6 and R.I.G.L. §25-3-7 the Director may exempt any class of employers, either because of the nature of their operations or their size, from the requirement that work performed by employees on Sundays and holidays must be paid for at least one and one-half (1 1/2) times the normal rate of pay for the work performed.
2. Any Rhode Island employer, as defined by § 25-3-1 (4) , may petition the Director for an exemption by filing with the Director a written statement containing the following: (a) a description of the class of employers which the petitioner seeks to exempt from holiday and Sunday premium wage laws; (b) a description of the employer classes' operational requirements necessitating Sunday and holiday staffing; (c) the approximate number of petitioner's employees who typically work on Sundays and holidays and who would be affected by the exemption; and (d) a statement of the economic necessity, as defined by §25-3-1, justifying the exemption.
3. Upon receipt of a petition for exemption pursuant to R.I.G.L. §25-3-7, the Director shall either grant the request for an exemption for a particular employer class and notify the petitioner of the Department's intent to promulgate regulations for that class pursuant to R.I.G.L. §42-35-1 et seq. or shall notify the petitioner that the request has been denied.
4. An employer whose petition for exemption has been denied, may, within ten (10) days from the date of the Director's notice of denial of the petition, request an appeal hearing before the Director or the Director's designee to present evidence or other information concerning the request; the Director shall then review the information provided and may either grant the petition or deny the petition.
5. When applicable, if a collective bargaining agreement provides for the payment of any premium wage on Sundays or holidays to certain employees who are otherwise exempted by these rules from receiving premium wages on Sundays or holidays, the employer shall pay the premium wage as required by the collective bargaining agreement.
6. Manufactures of monoclonal antibodies using mammalian cells requiring continuous operations and maintenance for the production of such monoclonal antibodies are exempt from paying employees Sunday and holiday premium pay

when those employees work directly on the production, maintenance and quality control testing of monoclonal antibodies using mammalian cells.

7. Fueling operators at Rhode Island Airport Corporation airports providing operation, quality assurance and maintenance services for the storage, receipt and distribution of aviation fuels and other related airline industry fuels and fluids, such as Glycol de-icing fluids, shall be exempt from paying employees Sunday and holiday premium pay. Exempt employees must provide oversight of daily fueling procedures, performance of quality checks, fuel related record keeping, direct receipt and testing of fuels, fuel inventory functions, environmental functions or dispersal services for commercial aviation fuel or related fuels and fluids or provide mandatory maintenance in line with Federal Aviation Administration (FAA) or Rhode Island Airport Authority protocols concerning aviation industry fuels and fluids or related fuels and fluids.
8. Employers of Federally Certified Maintenance Technicians that repair or inspect aircraft and specific ground service equipment at T.F. Green airport, and who are certified by the Federal Aviation Administration shall be exempt from paying employees Sunday and holiday premium pay.
9. Motorist service facilities located on, or approximate to, major interstate highways that operate twenty-four (24) hours a day, seven (7) days a week and provide gasoline and/or diesel fuel sales and vehicle servicing in combination with restaurant operations, convenience stores, or other travel amenities shall be exempt from paying employees Sunday and holiday premium pay.
10. All churches and other houses of worship that employ employees whose work is performed on the day of worship, during the worship service, and that work is solely related to the operation of conducting religious worship services shall be exempt from paying employees Sunday and holiday premium pay. The exemption from premium pay shall be limited to and applicable to work that is performed on the day of worship, during the worship service, and that work is solely related to the operation of conducting religious worship services. Such employees include, but are not limited to, choir directors who direct the choir during worship services, worship technologists who manage and operate light, sound, and audiovisual systems during worship services, youth directors who provide youth supervision and youth programs during religious services, and building and custodian maintenance staff who maintain the facilities during worship services.
11. All non-profit educational institutions of higher education located within Rhode Island, and other educational institutions that operate twenty-four (24) hours a day, seven (7) days a week and provide housing and food service, shall be exempt from paying employees Sunday and holiday premium pay.
12. Private Security Guard Businesses licensed under R.I.G.L. § 5-5.1-1 et seq., shall be exempt from paying employees Sunday and holiday premium pay.