**§ 161. One day rest in seven.** 1. Every employer operating a factory, mercantile establishment, hotel, restaurant, or freight or passenger elevator in any building or place shall, except as herein otherwise provided, allow every person employed in such establishment or in the care, custody or operation of any such elevator, at least twenty-four consecutive hours of rest in any calendar week. Every employer operating a place in which motion pictures are shown shall allow the projectionist or operator of the motion picture machine and engineers and firemen therein at least twenty-four consecutive hours of rest in any calendar week. Every employer operating a place in which legitimate theatre productions such as dramatic and musical productions are shown or exhibited shall allow all employees, including the performers in the cast therein and engineers and firemen, at least twenty-four consecutive hours of rest in each and every calendar week, but this shall not apply to any place wherein motion pictures, vaudeville or incidental stage presentations or a combination thereof are regularly given throughout the week as the established policy of such place; except that engineers and firemen employed in such place shall be allowed at least twenty-four consecutive hours of rest in any calendar week. No employer shall operate such establishment, place or elevator on Sunday unless he shall comply with subdivision three. This section does not authorize any work on Sunday not permitted now or hereafter by law.

Every owner, lessee and operator of a dwelling, apartment, loft and office building, garage, storage place and building, wherein or whereat a watchman or watchmen or engineer or fireman are employed, shall allow such person or persons so employed at least twenty-four consecutive hours of rest in each and every calendar week.

Every owner, lessee or operator of a warehouse, storagehouse, office, dwelling, apartment, loft and any other building or structure wherein a janitor, superintendent, supervisor or manager or engineer or fireman is employed, shall allow such person or persons so employed at least twenty-four consecutive hours of rest in each and every calendar week.

Every person employed as a domestic worker as defined in subdivision sixteen of section two of this chapter, shall be allowed at least

twenty-four consecutive hours of rest in each and every calendar week. No provision of this paragraph shall prohibit a domestic worker from voluntarily agreeing to work on such day of rest required by this paragraph, provided that the worker is compensated at the overtime rate for all hours worked on such day of rest. The day of rest authorized under this subdivision should, whenever possible, coincide with the traditional day reserved by the domestic worker for religious worship. In addition, after one year of work with the same employer a domestic worker shall be entitled to at least three days of rest in each calendar year at the regular rate of compensation.

Every person employed as a farm laborer shall be allowed at least twenty-four consecutive hours of rest in each and every calendar week. Twenty-four consecutive hours spent at rest because of circumstances, such as weather or crop conditions, shall be deemed to constitute the rest required by this paragraph. No provision of this paragraph shall prohibit a farm laborer from voluntarily agreeing to work on such day of rest required by this paragraph, provided that the farm laborer is compensated at an overtime rate which is at least one and one-half times the laborer's regular rate of pay for all hours worked on such day of rest. The term "farm labor" shall include all services performed in agricultural employment in connection with cultivating the soil, or in connection with raising or harvesting of agricultural commodities, including the raising, shearing, caring for and management of livestock, poultry or dairy. The day of rest authorized under this subdivision should, whenever possible, coincide with the traditional day reserved by the farm laborer for religious worship.

2. This section shall not apply to:

a. Foreman in charge;

b. Employees in milk condenseries, milk powder factories, milk sugar factories, milk shipping stations, butter and cheese factories, ice cream manufacturing plants and milk bottling plants, where not more than seven persons are employed;

c. Employees, if the board in its discretion approves, engaged in an industrial or manufacturing process necessarily continuous, in which no employee is permitted to work more than eight hours in any calendar day;

d. Employees whose duties include not more than three hours' work on Sunday in setting sponges in bakeries, maintaining fires, or making necessary repairs to boilers or machinery.

e. Employees in resort or seasonal hotels and restaurants in rural communities and in cities and villages having a population of less than fifteen thousand inhabitants, excluding that portion of the population of a third class city residing outside of its corporation tax district where such city embraces the entire area of a former township. As used in this subdivision, the term "resort" shall apply to any establishment enumerated herein which operates for not more than four calendar months and fifteen days in each year, and the term "seasonal" shall apply to any establishment enumerated herein in which the number of employees is increased by at least one hundred per cent from the slack to the busiest season.

f. Employees in dry dock plants engaged in making repairs to ships.

3. Before operating on Sunday, every employer shall designate a day of rest, consisting of at least twenty-four consecutive hours of rest in each and every calendar week for each employee, and shall notify each employee in advance of his or her designated day of rest. No employee shall be permitted to work on his designated day of rest.

4. Every employer shall keep a time book showing the names and addresses of his employees and the hours worked by each of them in each day.

5. If there shall be practical difficulties or unnecessary hardship in carrying out the provisions of this section or the rules promulgated hereunder, the commissioner may make a variation therefrom if the spirit of the act be observed and substantial justice done. Such variation shall describe the conditions under which it shall be permitted and

shall apply to substantially similar conditions. A properly indexed record of variations shall be kept by the department.

6. In case of violation of any of the provisions of this section, the commissioner shall issue an order directing compliance therewith, and upon failure so to comply shall commence a prosecution as provided by law.