§ 160A-295.1. (Contingent effective date – see Editor's note) Municipal firefighters; hours of labor; overtime pay.

(a)   A firefighter or a member of a fire department who provides emergency medical services, other than supervisory personnel, and who is required or permitted to work, on average, more than 53 hours in a seven-day work period or up to the number of hours that bears the same ratio to 212 hours as the number of days in the work period bears to 28 days is considered to have worked overtime. A person included under this subsection is entitled to be compensated for the overtime as provided by subsection (d) of this section.

(b)   A member of a fire department, other than supervisory personnel, who does not fight fires or provide emergency medical services, including a mechanic, clerk, investigator, inspector, fire marshal, fire alarm dispatcher, or maintenance worker, and who is required or permitted to average more hours in a week than the number of hours in a normal workweek of the majority of the employees of the municipality other than firefighters, emergency medical service personnel, and police officers, is considered to have worked overtime. A person included under this subsection is entitled to be compensated for the overtime as provided by subsection (d) of this section.

(c)   In computing the hours worked in a workweek or the average number of hours worked in a workweek during a work cycle of a firefighter or other member of a fire department covered by this section, all hours are counted during which the firefighter or other member of a fire department is required to remain on call on the employer's premises or so close to the employer's premises that the person cannot use those hours effectively for that person's own purposes. Hours in which the firefighter or other member of a fire department is required only to leave a telephone number at which that person may be reached or to remain accessible by radio or pager are not to be used in computing the hours worked. In computing the hours in a workweek or the average number of hours in a workweek during a work cycle of a firefighter or a member of a fire department who provides emergency medical services, vacation, sick time, holidays, time in lieu of holidays, compensatory time, or trade time may be excluded as hours worked.

(d)   A firefighter or other member of a fire department may be required or permitted to work overtime. A firefighter, other than supervisory personnel, who is required or permitted to work overtime as provided by subsection (a) of this section is entitled to be paid overtime for the excess hours worked without regard to the number of hours worked in any one week of the work cycle. Overtime hours as computed under this Article are to be paid at a rate equal to one and one-half times the compensation paid to the firefighter or member of the fire department for regular hours. To the extent that the municipality complies with the requirements of section 7(o) of the Fair Labor Standards Act (29 U.S.C. § 207(o)), it may compensate firefighters for their overtime hours with compensatory time in lieu of pay. A member of a fire department included under subsection (b) of this section shall be paid overtime in the same manner as other employees of the municipality entitled to overtime pay, excluding firefighters. (2008-151, s. 1.)