



Legal Alert: Tennessee Employers are Required to Compensate Employees for Travel Time To and From Jury Duty

10/20/2011

Executive Summary: In an October 10, 2011 Attorney General Opinion, the Tennessee Attorney General opined that Tennessee employers are required to compensate employees for travel time to and from jury duty in addition to the employees' actual jury service.

Tennessee Attorney General Opinion No. 11-72

The Attorney General's October 10, 2011 opinion was in response to a letter asking whether Tenn. Code Ann. § 22-4-106(b) requires employers to compensate employees for travel time to and from jury duty when the employee is not compensated for travel as part of the employees' usual compensation from the employer. The Attorney General opined that the employers are required to compensate employees for time spent traveling to and from jury duty regardless of whether the employee's usual compensation includes travel time. The Attorney General based his opinion on the plain language of Tenn. Code Ann. § 22-4-106, which provides that employers must compensate employees for time spent in jury service. Specifically, in determining that travel time is compensable, the Attorney General focused on statutory language that "no employer shall be required to compensate an employee for more time than was actually spent serving and traveling to and from jury duty." The Attorney General further relied on a 1978 opinion letter, which stated that an employee who serves two hours "traveling and sitting as a juror," would be entitled to two hours of compensation. Op. Tenn. Att'y Gen. 78-311 (July 31, 1978).

Based on the "plain meaning" of the statutory language, the Attorney General found that travel time to and from jury service is compensable. By way of example, the Attorney General stated that if an employee spends two hours traveling to and from jury service and four hours serving on the jury, the employee would be entitled to six total hours of his/her usual compensation.

Employers' Bottom Line:

Covered Tennessee employees summoned for jury duty are entitled to be excused from work to serve, provided they notify their employer and their jury duty responsibilities exceed three hours. Employees are entitled to their usual compensation for any time spent traveling to and from jury duty and actual time spent in jury duty. Therefore, covered Tennessee employers should not only request that their employees submit documentation of their

time spent in actual jury service, but also their travel time.

Please note that time spent in jury duty would not need to be calculated as hours worked for overtime purposes under the Fair Labor Standards Act, nor would it need to be included in the employee's regular rate when calculating overtime. See *Field Operation Handbook* § 32d03a.

If you have any questions regarding this Legal Alert or other labor or employment related questions, please contact the author, David A. Prather, a partner in our Memphis office, at dprather@fordharrison.com, or the Ford & Harrison attorney with whom you usually work.