

(iii) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring and firing and as to the advancement and promotion or any other change of status of other employees is given particular weight; and

(iv) Who customarily and regularly exercises discretionary powers.

(3) "Professional employee" means any employee whose primary duties consist of the performance of work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study.

(b) A retail or wholesale establishment may conduct business on Sunday for labor or profit in the usual manner and location, subject to the following:

(1) Except in cases of an emergency as declared by a federal, State, or local governmental authority, every nonmanagerial or nonprofessional person employed by a retail or wholesale establishment may choose as a day of rest his Sabbath or may choose Sunday as a day of rest by filing written notice with the employer.

(2) The employee may change the written designation during the course of that employee's employment if the employee files with the employer written notice of that change no later than 30 days prior to its effective date.

(3) The employer may not:

(i) Discharge, discipline, or discriminate against or penalize the employee for exercising the rights of choice provided in paragraph (1) of this subsection; or

(ii) Require a prospective full-time employee who is seeking a workweek consisting of 25 hours or more to answer any questions identifying the day of the week that employee chooses as a day of rest or Sabbath.

(4) Notwithstanding any agreement to the contrary between a merchant and landlord, a merchant may not be required directly or indirectly to open the merchant's place of business on Sunday.

(5) Notwithstanding any agreement to the contrary between a merchant and the landlord of the merchant, a landlord may not cancel or refuse to renew, directly or indirectly, the lease of a merchant because of the merchant's refusal to open the merchant's place of business on Sunday.