
Commerce & Labor Committee

ESB 6675

Brief Description: Prohibiting health care facilities from requiring employees to perform overtime work.

Sponsors: Senators Prentice, Fairley, Rasmussen, Fraser, Keiser, Costa, Franklin and Spanel.

<p style="text-align: center;">Brief Summary of Engrossed Bill</p> <ul style="list-style-type: none">· Establishes limits on mandatory overtime for registered nurses and licensed practical nurses employed by certain health care facilities.
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Hearing Date: 2/27/02

Staff: Chris Cordes (786-7103).

Background:

Both federal and Washington minimum wage laws establish requirements related to overtime work. These laws require covered employees to receive overtime pay for hours worked over 40 hours per week. These wage laws do not, however, prohibit an employer from requiring employees to work overtime. Other laws establish overtime limits for certain employees in specified industries. For example, regulations adopted under the federal Motor Carrier Act prohibit truck drivers from working more than a maximum number of hours in a specified period.

Summary of Bill:

Limits on mandatory overtime are established for registered nurses and licensed practical nurses who are involved in direct patient care or clinical services, paid an hourly wage, and employed by a health care facility. A health care facility includes a hospital, a hospice, a rural health care facility, and a psychiatric hospital, including those owned and operated by a political subdivision or the state. A nursing home or a home health agency is included if the home or agency is operating under the license of a health care facility.

Mandatory Overtime Limits

"Overtime" means work in excess of an agreed upon, predetermined, regularly scheduled shift within a 24-hour period not to exceed 12 hours in a 24-hour period or 80 hours in a consecutive 14-day period.

Covered employees may not be required to work overtime. Attempts to compel employees to work overtime are contrary to public policy and such a requirement in a contract or agreement is void. Acceptance of overtime must be voluntary. An employee's refusal to accept overtime work is not grounds for discrimination or other employment decision adverse to the employee.

Exceptions to the Mandatory Overtime Limits

The mandatory overtime limits do not apply to overtime work that occurs:

- because of unforeseeable emergent circumstances, including an unforeseen national or state emergency, the activation of a health care facility disaster plan, or an unforeseen disaster or catastrophic event that substantially increases the need for health care services;
- because of prescheduled on-call time;
- when the employer documents that the employer has used reasonable efforts to obtain staffing, including seeking volunteers, contacting qualified individuals who have made themselves available, seeking the use of per diem staff, and seeking personnel from a contracted temporary agency, if permitted and if the employer regularly uses a contracted temporary agency. An employer has not used reasonable efforts if overtime work is used to fill vacancies resulting from chronic staff shortages; or
- when an employee is required to work overtime to complete a patient care procedure already in progress where the employee's absence could have an adverse effect on the patient.

Civil Penalties for Violations

The Department of Labor and Industries must investigate complaints of mandatory overtime violations. The department may issue and enforce violations as civil infractions, with a maximum penalty of \$1,000 for each infraction, up to three infractions. If a health care facility has four or more violations, the penalty is \$2,500 for the fourth violation and \$5,000 for each subsequent violation.

Rules Authority: The bill does not contain provisions addressing the rule-making powers of an agency.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.