
HOUSE BILL 1527

State of Washington

57th Legislature

2001 Regular Session

By Representatives Conway, Campbell, Cody, Kenney, Dunshee, Edwards, Wood, Edmonds, Simpson, Keiser and Santos

Read first time 01/29/2001. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to prohibiting health care facilities from
2 requiring employees to perform overtime work; adding a new section
3 to chapter 49.28 RCW; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 49.28
6 RCW to read as follows:

7 (1) The definitions in this subsection apply throughout this
8 section unless the context clearly requires otherwise.

9 (a) "Employee" means a nonsupervisory individual employed by a
10 health facility who is involved in direct patient care activities
11 or clinical services and who receives an hourly wage or is
12 classified as a nonsupervisory employee for collective bargaining
13 purposes.

14 (b) "Employer" means an individual, partnership, association,
15 corporation, or person or group of persons acting directly or
16 indirectly in the interest of a health care facility. "Employer"
17 includes all state institutions and political subdivisions of the
18 state.

1 (c) "Health care facility" means a health care facility
2 licensed by the state or authorized to provide care within the
3 state.

4 (d) "Overtime" means the hours worked in excess of an agreed
5 upon, predetermined, regularly scheduled shift or work week, as
6 determined by contract, established work scheduling practices,
7 policies, or procedures.

8 (2) No employee of a health care facility can be required or
9 forced to work overtime. Any other attempts to compel or force
10 employees to work overtime are contrary to public policy and any
11 such requirement contained in any contract, agreement, or
12 understanding executed after the effective date of this section is
13 void.

14 (3)(a) Notwithstanding any provision of law to the contrary, no
15 health care facility shall require an employee to accept work in
16 excess of an agreed upon, predetermined, regularly scheduled shift
17 or work week, as determined by contract, established work
18 scheduling practices, policies, or procedures.

19 (b) The acceptance by any employee of such work in excess of an
20 agreed upon, predetermined, regularly scheduled shift or work
21 week, as determined by contract, established work scheduling
22 practices, policies, or procedures is strictly voluntary and the
23 refusal of any employee to accept such overtime work is not
24 grounds for discrimination, dismissal, discharge, or any other
25 penalty, threats of reports for discipline, or employment decision
26 adverse to the employee.

27 (c) This section shall not apply in the case of an unforeseen
28 national, state, or municipal emergency, and then overtime is
29 required only as a last resort.

30 (4)(a) Any employer who violates this section is subject to a
31 penalty under RCW 49.28.030. If there are three or more violations
32 of this section per health care facility within a calendar year,
33 the fines shall treble for the fourth and subsequent violations. If
34 any health care facility has seven or more violations, such
35 facility shall be investigated and if the investigators find an
36 ongoing pattern of deliberate violations of this section, the
37 health care facility license may be suspended or revoked. If a
38 health care facility is found to deliberately violate the

1 provisions of this section, a notice of the violation will be
2 published in the Washington state register to include the name of
3 the institution, date of violation, and the method of remedy
4 provided to the employee. Such notice shall be published in the
5 Washington state register within thirty days of resolution of the
6 complaint, lawsuit, or both. The violation shall also be reported
7 to state and federal health care licensure and accrediting
8 organizations.

9 (b) In any retaliatory or employment suit brought for
10 violations of this section, the fact that any employee worked in
11 excess of forty hours per week and any evidence thereto is a prima
12 facie violation of this section. To rebut this presumption,
13 employers must prove that a federal, state, or national emergency
14 occurred and overtime is required only as a last resort at the
15 time the employee was forced or compelled to work.

16 (c) The employee who initially reports violations of this
17 section, which lead to sanctions of the health care facility, has
18 the right to receive twenty percent of the fine for making the
19 report.

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