
HOUSE BILL 2601

State of Washington

57th Legislature

2002 Regular Session

By Representatives Cody, Campbell, Conway, Skinner, Wood, McDermott, Ballasiotes, McIntire, Darneille and Ogden

Read first time 01/22/2002. Referred to Committee on Commerce & Labor.

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

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

5 NEW SECTION. **Sec. 1.** Washington state is experiencing a critical
6 shortage of qualified, competent health care workers. To safeguard the
7 health, efficiency, and general well-being of health care workers and
8 promote patient safety and quality of care, the legislature finds, as
9 a matter of public policy, that required overtime work should be
10 limited in order to ensure the public will continue to receive safe
11 quality care.

12 NEW SECTION. **Sec. 2.** The definitions in this section apply
13 throughout sections 3 and 4 of this act unless the context clearly
14 requires otherwise.

15 (1) "Employee" means an individual employed by a health care
16 facility who is involved in direct patient care activities or clinical
17 services and receives an hourly wage, but does not include a physician.

1 (2) "Employer" means an individual, partnership, association,
2 corporation, state institution, political subdivision of the state, or
3 person or group of persons, acting directly or indirectly in the
4 interest of a health care facility.

5 (3) "Health care facility" means a health care facility, as defined
6 in RCW 48.43.005, licensed by the state or authorized to provide care
7 within the state. "Health care facility" does not include nursing
8 homes, boarding homes, and adult family homes.

9 (4) "Overtime" means the hours worked in excess of an agreed upon,
10 predetermined, regularly scheduled shift not to exceed twelve hours in
11 a twenty-four-hour period or eighty hours in a consecutive fourteen-day
12 period.

13 (5) "Unforeseeable emergent circumstance" means (a) any unforeseen
14 declared national, state, or municipal emergency; (b) when a health
15 care facility disaster plan is activated; or (c) any unforeseen
16 disaster or other catastrophic event which substantially affects or
17 increases the need for health care services.

18 NEW SECTION. **Sec. 3.** (1) No employee of a health care facility
19 may be required to work overtime. Attempts to compel or force
20 employees to work overtime are contrary to public policy, and any such
21 requirement contained in a contract, agreement, or understanding is
22 void.

23 (2) The acceptance by any employee of overtime is strictly
24 voluntary, and the refusal of an employee to accept such overtime work
25 is not grounds for discrimination, dismissal, discharge, or any other
26 penalty, threat of reports for discipline, or employment decision
27 adverse to the employee.

28 (3) This section does not apply in the case of any unforeseeable
29 emergent circumstance.

30 (4) The provisions of this section do not apply to prescheduled
31 on-call time, unless on-call is used as a substitute for mandatory
32 overtime or on-call is used as a means to fill vacancies resulting from
33 chronic short staffing.

34 (5) Violation of this section is a misdemeanor.

35 NEW SECTION. **Sec. 4.** (1) The department of labor and industries
36 shall investigate complaints of violations of section 3 of this act.
37 If upon inspection or investigation, the department of labor and

1 industries finds that an employer has violated a requirement of section
2 3 of this act, the department shall with reasonable promptness issue a
3 citation to the employer. Each citation must be in writing and
4 describe with particularity the nature of the violation and the fine
5 imposed. For each violation of section 3 of this act, the employer is
6 subject to a fine of one thousand dollars. If there are three or more
7 violations of section 3 of this act for an employer within a calendar
8 year, the employer is subject to a fine of five thousand dollars for
9 the fourth violation, and ten thousand dollars for each subsequent
10 violation. In addition, the employer shall prominently post in the
11 workplace each citation, or a copy of the citation, issued under the
12 authority of this section.

13 (2)(a) The director of the department or any authorized
14 representative may, for the purpose of carrying out this section: (i)
15 Issue subpoenas to compel the attendance of witnesses or parties and
16 the production of books, papers, or records; (ii) administer oaths and
17 examine witnesses under oath; (iii) take the verification of proof of
18 instruments of writing; and (iv) take depositions and affidavits.
19 Obedience to subpoenas issued by the director or authorized
20 representative shall be enforced by the courts in any county.

21 (b) The director or authorized representative shall have free
22 access to all employers. Any employer or any agent or employee of such
23 employer who refuses the director or authorized representative
24 admission, or who, when requested by the director or authorized
25 representative, willfully neglects or refuses to furnish the director
26 or authorized representative any statistics or information pertaining
27 to his or her lawful duties, which statistics or information may be in
28 his or her possession or under the control of the employer or agent, is
29 guilty of a misdemeanor.

30 (c) If the employer or former employer fails to pay the fine
31 assessed by the department or make satisfactory explanation to the
32 director of his or her failure to do so, within thirty days after
33 issuance, the employer or former employer is liable for a penalty of
34 ten percent of that portion of the claim found to be justly due. The
35 director shall have a cause of action against the employer or former
36 employer for the recovery of such fine.

1 NEW SECTION. **Sec. 5.** Sections 2 through 4 of this act are each
2 added to chapter 49.28 RCW.

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