
ENGROSSED SENATE BILL 6675

State of Washington 57th Legislature

2002 Regular Session

By Senators Prentice, Fairley, Rasmussen, Fraser, Keiser, Costa, Franklin and Spanel

Read first time 01/25/2002. Referred to Committee on Labor, Commerce & Financial Institutions.

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 with reasonable safeguards in order to ensure that the public
11 will continue to receive safe, quality care.

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

15 (1) "Employee" means a licensed practical nurse or a registered
16 nurse licensed under chapter 18.79 RCW employed by a health care
17 facility who is involved in direct patient care activities or clinical
18 services and receives an hourly wage.

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 the following facilities, or any
6 part of the facility, that operates on a twenty-four hours per day,
7 seven days per week basis: Hospices licensed under chapter 70.127 RCW,
8 hospitals licensed under chapter 70.41 RCW, rural health care
9 facilities as defined in RCW 70.175.020, and psychiatric hospitals
10 licensed under chapter 71.12 RCW, and includes such facilities if owned
11 and operated by a political subdivision or instrumentality of the
12 state. If a nursing home regulated under chapter 18.51 RCW or a home
13 health agency regulated under chapter 70.127 RCW is operating under the
14 license of a health care facility, the nursing home or home health
15 agency is considered part of the health care facility for the purposes
16 of this subsection.

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

21 (5) "On-call time" means time spent by an employee who is not
22 working on the premises of the place of employment but who is
23 compensated for availability or who, as a condition of employment, has
24 agreed to be available to return to the premises of the place of
25 employment on short notice if the need arises.

26 (6) "Reasonable efforts" means that the employer, to the extent
27 reasonably possible, does all of the following but is unable to obtain
28 staffing coverage:

29 (a) Seeks individuals to volunteer to work extra time from all
30 available qualified staff who are working;

31 (b) Contacts qualified employees who have made themselves available
32 to work extra time;

33 (c) Seeks the use of per diem staff; and

34 (d) Seeks personnel from a contracted temporary agency when such
35 staffing is permitted by law or an applicable collective bargaining
36 agreement, and when the employer regularly uses a contracted temporary
37 agency.

38 (7) "Unforeseeable emergent circumstance" means (a) any unforeseen
39 declared national, state, or municipal emergency; (b) when a health

1 care facility disaster plan is activated; or (c) any unforeseen
2 disaster or other catastrophic event which substantially affects or
3 increases the need for health care services.

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

9 (2) The acceptance by any employee of overtime is strictly
10 voluntary, and the refusal of an employee to accept such overtime work
11 is not grounds for discrimination, dismissal, discharge, or any other
12 penalty, threat of reports for discipline, or employment decision
13 adverse to the employee.

14 (3) This section does not apply to overtime work that occurs:

15 (a) Because of any unforeseeable emergent circumstance;

16 (b) Because of prescheduled on-call time;

17 (c) When the employer documents that the employer has used
18 reasonable efforts to obtain staffing. An employer has not used
19 reasonable efforts if overtime work is used to fill vacancies resulting
20 from chronic staff shortages; or

21 (d) When an employee is required to work overtime to complete a
22 patient care procedure already in progress where the absence of the
23 employee could have an adverse effect on the patient.

24 NEW SECTION. **Sec. 4.** The department of labor and industries shall
25 investigate complaints of violations of section 3 of this act. A
26 violation of section 3 of this act is a class 1 civil infraction in
27 accordance with chapter 7.80 RCW, except that the maximum penalty is
28 one thousand dollars for each infraction up to three infractions. If
29 there are four or more violations of section 3 of this act for a health
30 care facility, the employer is subject to a fine of two thousand five
31 hundred dollars for the fourth violation, and five thousand dollars for
32 each subsequent violation. The department of labor and industries is
33 authorized to issue and enforce civil infractions according to chapter
34 7.80 RCW.

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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