

# SENATE BILL REPORT

## E2SHB 3024

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As of February 23, 2010

**Title:** An act relating to meal and rest breaks for employees of hospitals.

**Brief Description:** Providing uninterrupted meal and rest breaks for certain employees.

**Sponsors:** House Committee on Ways & Means (originally sponsored by Representatives Conway, Morrell, Van De Wege, Williams, Sullivan, Seaquist, Green, Campbell, Simpson, Wood and Nelson).

**Brief History:** Passed House: 2/15/10, 63-34.

**Committee Activity:** Labor, Commerce & Consumer Protection: 2/22/10.

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### SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

**Staff:** Kathleen Buchli (786-7488)

**Background:** Under the Industrial Welfare Act, it is unlawful for an employer to employ workers under conditions of labor that are detrimental to their health. The Department of Labor and Industries (Department) is authorized to conduct investigations into employment conditions and to adopt rules establishing employment standards.

The rules governing rest and meal periods require a meal period of at least 30 minutes. Employees are also allowed a paid rest period of at least ten minutes for each four hours worked. By administrative policy, the Department requires that the rest period be scheduled as near as possible to the midpoint of the four hours of working time. Where the nature of the work allows, employees may also take intermittent rest periods equivalent to ten minutes for each four hours worked.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Proposed Amendments):** Hospitals must provide employees uninterrupted 30-minute meal breaks and rest breaks of at least ten minutes for every four hours worked, or as otherwise agreed to be provided by the employer, whichever is longer. This requirement does not apply if there is: an unforeseeable emergent circumstance; or a clinical circumstance that may lead to patient harm without the specific skill or expertise of the employee on break. An unforeseeable emergent circumstance is defined as any unforeseen declared national, state, or municipal emergency; when a health care facility

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disaster plan is activated; or any unforeseen disaster or other catastrophic event which substantially affects or increases the need for health care services.

Rest breaks may be taken at any point during each four-hour work period during which the employee is required to receive the rest break. Reporting a missed break is not grounds for discrimination, dismissal, discharge, or any other penalty, threat of reports for discipline, or employment decision adverse to the employee.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 19, 2010.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: Hospitals tell us to take our breaks, but we are not able to because there is nobody there to give us relief. Rest breaks and meal periods have come up during collective bargaining but have not been addressed and have been diverted to the nurse staffing committee. We have been interrupted during rest breaks for nonemergent care needs. This bill is reasonable and does not provide an undue burden to hospitals. Ensuring adequate rest and meal periods is both a patient safety and a nurse retention issue. Working without breaks results in mental and physical fatigue in a nurse. There is a decrease in errors when nurses receive rest and meal periods. This leaves administrators and nurses the flexibility on how to schedule breaks. This bill is a rational approach to the problem and sets a uniform standard across the state for safe patient care. This about patient safety and whether the people caring for you have the concentration and the ability to act quickly.

CON: Two years ago, legislation was passed for safe staffing committees; let the staffing committee law work. This is a poorly drafted piece of legislation with 13 specific ambiguities in the bill. This bill does not resolve the problem of the workers not getting breaks; that is already a violation of law. This is a solution in search of a problem. Nurses want to get their breaks, but they want the freedom to determine when to take them and for how long. There is a concern about enforcement and that there will have to be documentation of breaks and that these breaks will have to be scheduled. This bill will be detrimental to patient care; nurses attention will be turned from their patients and there will be delays in patient care. Collective bargaining creates flexibility and we feel strongly that this nullifies collective bargaining. The issue of staffing should be addressed because when nurses do not take breaks, this is because the patient is critically ill or because of inadequate staffing; this is a safe staffing issue.

**Persons Testifying:** PRO: Susan Jacobson; Mary McNaughton; Sally Watkins; Chris Barton, Service Employees International Union #1199; Rise James; Sharon Ness, United Food and Commercial Workers; Anne Tan Piazza, Washington State Nurses Association.

CON: Laurie Brown, Franciscan Health System; Jayne Binning, Franciscan Health System, St. Anthony; Genia Helbig, Franciscan Health System, St. Joseph; Leah Gehri, Multicare;

Tim O'Connell, Stoel Rives; William Berko, Seattle Children's Hospital; Andrea Gallagher, Pullman Regional Hospital; Christina Capone, Agency Nurse.