
HOUSE BILL 1680

State of Washington

61st Legislature

2009 Regular Session

By Representatives Green, Conway, Appleton, Wood, Campbell, Morrell, Hasegawa, Darneille, Crouse, Seaquist, Williams, Cody, Moeller, Priest, Smith, Sullivan, Kenney, and Ormsby

Read first time 01/27/09. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to limiting the exceptions to the prohibition on
2 mandatory overtime for employees of health care facilities; and
3 amending RCW 49.28.130 and 49.28.140.

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

5 **Sec. 1.** RCW 49.28.130 and 2002 c 112 s 2 are each amended to read
6 as follows:

7 The definitions in this section apply throughout this section and
8 RCW 49.28.140 and 49.28.150 unless the context clearly requires
9 otherwise.

10 (1) "Employee" means a person who is (a) a licensed practical nurse
11 or a registered nurse licensed under chapter 18.79 RCW, a surgical
12 technologist registered under chapter 18.215 RCW, a radiologic
13 technologist certified under chapter 18.84 RCW, or a cardiovascular
14 technologist or technician who conduct tests on pulmonary or
15 cardiovascular systems of patients for diagnostic purposes; and (b)
16 employed by a health care facility who is involved in direct patient
17 care activities or clinical services and receives an hourly wage.

18 (2) "Employer" means an individual, partnership, association,

1 corporation, state institution, political subdivision of the state, or
2 person or group of persons, acting directly or indirectly in the
3 interest of a health care facility.

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

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

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

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

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

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

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

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

37 (7) "Unforeseeable emergent circumstance" means (a) any unforeseen
38 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 **Sec. 2.** RCW 49.28.140 and 2002 c 112 s 3 are each amended to read
5 as follows:

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

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

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

16 (a) Because of any unforeseeable emergent circumstance;

17 (b) Because of prescheduled on-call time. Prescheduled on-call
18 time must only be used for unanticipated and immediate patient care
19 emergencies. Prescheduled on-call time may not be used to fill chronic
20 or foreseeable staff shortages. The employer shall document reasonable
21 efforts to obtain staffing to avoid prescheduled on-call time;

22 (c) When the employer documents that the employer has used
23 reasonable efforts to obtain staffing. An employer has not used
24 reasonable efforts if overtime work is used to fill vacancies resulting
25 from chronic staff shortages; or

26 (d) When an employee is required to work overtime to complete a
27 patient care procedure already in progress where the absence of the
28 employee could have an adverse effect on the patient. The employer may
29 not schedule nonemergency procedures that would require overtime.

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