

HOUSE BILL REPORT

HB 1152

As Reported by House Committee On:
Labor & Workforce Development
Appropriations

Title: An act relating to meal and rest breaks for hospital employees.

Brief Description: Addressing meal and rest breaks for hospital employees.

Sponsors: Representatives Morrell, Sells, Cody, Fitzgibbon, Moscoso, Green, Dunshee, Ryu, Van De Wege, Pollet, Maxwell, Bergquist, Hunt, Farrell and Santos.

Brief History:

Committee Activity:

Labor & Workforce Development: 1/29/13, 2/12/13 [DP];
Appropriations: 2/19/13, 2/27/13 [DP].

Brief Summary of Bill

- Requires that meal and rest periods for certain hospital employees be uninterrupted.
- Permits rest periods to be taken at any point in the work period.
- Requires hospitals to record when certain employees take or miss a meal or rest period.

HOUSE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Majority Report: Do pass. Signed by 5 members: Representatives Sells, Chair; Reykdal, Vice Chair; Green, Moeller and Ormsby.

Minority Report: Do not pass. Signed by 4 members: Representatives Manweller, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Holy and Short.

Staff: Alexa Silver (786-7190).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

By rule, the Department of Labor and Industries (Department) requires that employees be provided with meal and rest periods. An employee must be allowed a 30-minute meal period starting no earlier than two hours and no later than five hours from the beginning of a shift. An employer may not require an employee to work more than five hours without a meal period. Meal periods are on the employer's time if the employee must remain on the premises and act in the interest of the employer. Meal periods may be unpaid if the employee is completely relieved from his or her duties during the meal period.

For every four hours worked an employee must be allowed a 10-minute rest period, and an employee may not be required to work more than three hours without a rest period. Rest periods must be scheduled as near as possible to the midpoint of the work period. Rest periods are on the employer's time.

Scheduled rest periods are not required where the nature of the work allows employees to take intermittent rest periods equivalent to 10 minutes for every four hours worked. Examples of intermittent rest periods include personal phone calls and conversations, snacks, and times when there is no work to do.

Summary of Bill:

Hospitals must provide certain employees with meal and rest periods as required by law, except that:

- rest periods may be taken at any point in the work period; and
- meal and rest periods must be uninterrupted, and hospitals may not require employees to take intermittent meal or rest periods.

A meal or rest period may be interrupted where there is an unforeseeable emergent circumstance or a clinical circumstance that may lead to patient harm without the employee's specific skill or expertise.

Hospitals must record when an employee takes or misses a meal or rest period and maintain these records as required by the Department.

Employees covered by these provisions are registered nurses, licensed practical nurses, surgical technologists, diagnostic radiologic technologists, cardiovascular invasive specialists, respiratory care practitioners, and certified nursing assistants who:

- are involved in direct patient care activities or clinical services; and
- receive an hourly wage or are covered by a collective bargaining agreement.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Not providing adequate breaks is dangerous to patients because it results in excessive fatigue, and nurses make mistakes when they are not rested. Nursing requires alertness and decision-making under pressure. Breaks ensure that patients get the best care. Regulations require pilots and truck drivers to sleep, and nurses have at least that same level of responsibility for safety. Nurses try to give each other breaks, but it is rare that nurses can take an uninterrupted break. The majority of nurses polled were not getting the breaks they need. Lack of breaks and concern for patient safety have caused some to leave or consider leaving the profession. Nurses in hospitals that provide meal and rest breaks are flexible and work around the needs of patients. This bill will solve some staffing problems by requiring hospitals to plan for breaks. It is important to have a statewide standard. The notion that this bill usurps nurses' professional judgment is wrong.

(Opposed) Everyone agrees that nurses need meal and rest breaks. Different hospitals and units have different solutions; one unit uses a buddy system, and another uses prescheduled sign-up sheets. No single solution fits every clinical area or type of caregiver. Coordinators are assigned to help assist with break coverage, and staff are supported through nurse staffing committees. This bill will require hospitals to schedule breaks, but patient care is dynamic, so prescheduling will not work. Nurses want their professional judgment taken into consideration and want the authority to decide when to take breaks.

This bill requires that breaks be provided in a way that cannot be financially sustained. In rural areas, it would be difficult to find enough staffing. Overtime is paid when breaks are missed. For small hospitals in particular, expanding breaks to technologists will be quite costly. The reporting requirements would require a manual system to track the data.

Persons Testifying: (In support) Representative Morrell, prime sponsor; Georgetta Hachiya, Chris Barton, and Angella Grigger, Service Employees International Union Healthcare 1199NW; Julia Weinburg and Anne Tan Piazza, Washington State Nurses Association; and Donna Rosenberg and Sarah Cherin, United Food and Commercial Workers Local 21.

(Opposed) Laurie Brown, Franciscan Health System; William Berko, Seattle Children's Hospital; Sarah Schwen, Virginia Mason; and John White, Klickitat Valley Health.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 18 members: Representatives Hunter, Chair; Ormsby, Vice Chair; Carlyle, Cody, Dunshee, Green, Haigh, Hudgins, Hunt, Jinkins, Kagi, Maxwell, Morrell, Pedersen, Pettigrew, Seaquist, Springer and Sullivan.

Minority Report: Do not pass. Signed by 13 members: Representatives Alexander, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Wilcox,

Assistant Ranking Minority Member; Buys, Dahlquist, Fagan, Haler, Harris, Parker, Pike, Ross, Schmick and Taylor.

Staff: Charlie Gavigan (786-7340).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Labor & Workforce Development:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Eighty percent of medical errors are preventable. Nurses need to be fresh for patient safety. Nurses face high demands and stress. Uninterrupted breaks are needed for staff to be more alert and provide the best patient care and prevent errors. The University of Washington hospitals should be doing this already.

(Opposed) Hospitals will have to hire additional staff and will have more administrative costs. Rural hospitals have fewer resources to pay for the additional costs. Hospitals are already providing breaks. Flexibility is needed to work with nurses on this issue and treat nurses professionally; the bill reduces flexibility.

Persons Testifying: (In support) Representative Morrell, prime sponsor; Sofia Aragon, Washington State Nurses Association; and Joanne Metroplous, Service Employees International Healthcare 1199 NW.

(Opposed) Laurie Brown, Franciscan Health; John White, Klickitas Health; Kirk Harper, Kadlec Health; and Steve Becker, Coulee Medical Center.

Persons Signed In To Testify But Not Testifying: None.