

FINAL BILL REPORT

SHB 1155

C 296 L 19
Synopsis as Enacted

Brief Description: Concerning meal and rest breaks and mandatory overtime for certain health care employees.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Riccelli, Appleton, Sells, Chapman, Fitzgibbon, Cody, Pellicciotti, Frame, Sullivan, Wylie, Jinkins, Orwall, Valdez, Ortiz-Self, Stonier, Thai, Lovick, Reeves, Doglio, Pollet, Bergquist, Santos, Macri, Goodman, Robinson and Stanford).

House Committee on Labor & Workplace Standards
House Committee on Appropriations
Senate Committee on Labor & Commerce
Senate Committee on Ways & Means

Background:

Meal and Rest Periods.

The Department of Labor and Industries (Department) establishes requirements for meal and rest breaks for employees. Employees working over five hours must be allowed to take a 30-minute meal period. Meal periods may be unpaid if the employee is completely relieved from duties during the meal period. Meal periods must be paid if the employee must remain on the premises and act in the interest of the employer. An employee who is required to remain on the premises and act in the interest of the employer may have their meal period interrupted to perform tasks, but once the task is complete, the meal period continues until the employee receives 30 minutes total.

Regarding rest periods, employees must receive a paid rest period of at least 10 minutes for each four-hour period worked. The rest period must be allowed no later than the end of the third hour worked.

Employees need not be given an uninterrupted 10-minute break if the nature of the work allows for intermittent rest periods equal to 10 minutes. The Department's administrative policy describes intermittent rest periods as intervals of short duration in which employees are allowed to rest, and can include personal activities such as making personal telephone calls and attending to personal business. In certain circumstances, employers may require employees to remain on-call during their paid rest breaks. Employees may remain on-call

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during rest periods, but if they are called to duty, the break becomes an intermittent rest period.

Overtime.

Health care facilities are prohibited from requiring certain employees to work overtime. Employees may voluntarily agree to work overtime, but cannot be required to do so or be retaliated against for refusing. The employees covered by this provision are licensed practical nurses and registered nurses involved in direct patient care activities or clinical services and who receive an hourly wage.

The mandatory overtime prohibition does not apply to work that occurs:

- because of any unforeseeable emergent circumstance;
- because of prescheduled on-call time;
- when the employer has used reasonable efforts to obtain staffing; or
- when an employee must work overtime to complete a patient care procedure already in progress where it would be detrimental to the patient if the employee left.

The health care facilities covered by this mandatory overtime prohibition are:

- hospices;
- hospitals;
- rural health care facilities;
- certain psychiatric hospitals; and
- facilities owned or operated by prisons and jails that provide health care services to inmates in the custody of the Department of Corrections.

Summary:

Meal and Rest Periods.

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

- rest periods must be scheduled at any point in the work period; and
- meal and rest periods must be uninterrupted.

However, a meal or rest period may be interrupted where there is: (a) an unforeseeable emergent circumstance; or (b) a clinical circumstance, as determined by the employee, employer, or employer's designee, that may lead to a significant adverse effect on the patient's condition without the knowledge, skill, or ability of the employee or due to an unforeseen or unavoidable event relating to patient care delivery requiring immediate action that could not be planned for by the employer.

For any rest break that is interrupted before 10 complete minutes by an employer or employer's designee due to a clinical circumstance that may lead to a significant adverse effect on the patient's condition, the employee must be given an additional 10 minute uninterrupted rest break at the earliest reasonable time.

The hospital must provide a mechanism to record when an employee misses a meal or rest period and maintain these records.

Employees covered by these provisions are licensed practical nurses, registered 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.

The following hospitals are excluded from the provision until July 1, 2021:

- hospitals with fewer than 25 acute care beds in operation;
- hospitals certified as critical access hospitals; and
- hospitals certified by centers for Medicare and Medicaid services as sole community hospitals as of January 1, 2013, that have had fewer than 150 acute care licensed beds in fiscal year 2011, have a level III adult trauma service as of January 1, 2014, and are owned and operated by the state or a political subdivision.

Overtime.

The mandatory overtime prohibitions are expanded to apply to the same groups of employees covered under the meal and rest period provisions; however, the provisions do not apply to surgical technologists, diagnostic radiologic technologists, cardiovascular invasive specialists, respiratory care practitioners, and nursing assistants-certified, until July 1, 2020. In addition, for facilities owned and operated by prisons and jails, the restrictions apply only to licensed practical nurses and registered nurses.

The exceptions to the overtime prohibition are amended, specifying restrictions on the use of prescheduled on-call time. Mandatory prescheduled on-call time may not be used: (1) in lieu of scheduling employees to work regularly scheduled shifts when a staffing plan indicates the need for a scheduled shift; or (2) to address regular changes in patient census or acuity or expected increases in the number of employees not reporting for predetermined scheduled shifts.

An employee accepting overtime who works more than 12 consecutive hours must be provided the option to have at least eight consecutive hours of uninterrupted time off from work following the time worked.

The same hospitals excluded from the rest break provisions until July 1, 2021, are also excluded from the new overtime provisions until July 1, 2021.

Votes on Final Passage:

House	63	34	
Senate	30	18	(Senate amended)
House			(House refused to concur)

Conference Committee

Senate	32	16
House	70	24

Effective: January 1, 2020