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HOUSE BILL 1850

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State of Washington

61st Legislature

2009 Regular Session

By Representatives Green, Appleton, Miloscia, Sells, Conway, Cody, Chase, Sullivan, and Morrell

Read first time 01/30/09. Referred to Committee on Commerce & Labor.

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

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 licensed practical nurse or a registered~~  
11 ~~nurse licensed under chapter 18.79 RCW~~) an individual employed by a  
12 health care facility who is involved in direct patient care activities  
13 or clinical services and receives an hourly wage.

14 (2) "Employer" means an individual, partnership, association,  
15 corporation, state institution, political subdivision of the state, or  
16 person or group of persons, acting directly or indirectly in the  
17 interest of a health care facility.

18 (3) "Health care facility" means the following facilities, or any  
19 part of the facility, that operates on a twenty-four hours per day,

1 seven days per week basis: Hospices licensed under chapter 70.127 RCW,  
2 hospitals licensed under chapter 70.41 RCW, rural health care  
3 facilities as defined in RCW 70.175.020, and psychiatric hospitals  
4 licensed under chapter 71.12 RCW, and includes such facilities if owned  
5 and operated by a political subdivision or instrumentality of the  
6 state. If a nursing home regulated under chapter 18.51 RCW or a home  
7 health agency regulated under chapter 70.127 RCW is operating under the  
8 license of a health care facility, the nursing home or home health  
9 agency is considered part of the health care facility for the purposes  
10 of this subsection.

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

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

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

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

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

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

28 (d) Seeks personnel from a contracted temporary agency when such  
29 staffing is permitted by law or an applicable collective bargaining  
30 agreement, and when the employer regularly uses a contracted temporary  
31 agency.

32 (7) "Unforeseeable emergent circumstance" means (a) any unforeseen  
33 declared national, state, or municipal emergency; (b) when a health  
34 care facility disaster plan is activated; or (c) any unforeseen  
35 disaster or other catastrophic event which substantially affects or  
36 increases the need for health care services.

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