
Commerce & Labor Committee

HB 2601

Brief Description: Prohibiting health care facilities from requiring employees to perform overtime work.

Sponsors: Representatives Cody, Campbell, Conway, Skinner, Wood, McDermott, Ballasiotes, McIntire, Darneille and Ogden.

Brief Summary of Bill
<ul style="list-style-type: none">Establishes limits on mandatory overtime for certain health care employees.

Hearing Date: 1/28/02

Staff: Chris Cordes (786-7103).

Background:

Both federal and Washington minimum wage laws establish requirements related to overtime work. These laws require covered employees to receive overtime pay for hours worked over 40 hours per week. These laws do not, however, prohibit an employer from requiring employees to work overtime. Other laws establish overtime limits only for certain employees in specified industries, such as truck drivers in the transportation industry.

Summary of Bill:

Limits on mandatory overtime are established for certain employees of health care facilities. A health care facility includes the following facilities licensed by the state or authorized to provide care within the state: hospitals; hospices; rural health care facilities; psychiatric hospitals; community mental health centers; kidney disease treatment centers; ambulatory diagnostic, treatment, or surgical facilities; and drug and alcohol treatment facilities. It includes these facilities if owned and operated by a political subdivision or the state. Nursing homes, boarding homes, or adult family homes are not covered.

Mandatory Overtime Limits

Hourly employees involved in direct patient care or clinical services who are employed by a covered public or private health care facility may not be required to work more than the agreed upon, predetermined, regularly scheduled shift of up to 12 hours in a 24-hour period or 80 hours in a consecutive 14-day period. Acceptance of overtime beyond these hours must be voluntary. An employee's refusal to accept overtime work is not grounds for discrimination or other employment decision adverse to the employee. A requirement in a contract or other understanding that attempts to compel employees to work beyond these limits is void.

Exceptions to the Mandatory Overtime Limits

The mandatory overtime limits do not apply:

- to physicians;
- to prescheduled on-call time, unless on-call is used to substitute for mandatory overtime or as a means to fill vacancies resulting from chronic short staffing;
- in unforeseeable emergent circumstances, including an unforeseen national or state emergency, the activation of a health care facility disaster plan, or an unforeseen disaster or catastrophic event that increases the need for health care services.

Investigation of Complaints

The Department of Labor and Industries must investigate complaints of mandatory overtime violations. The department is authorized to issue subpoenas, verify written documents, and take depositions and affidavits. The department must also have free access to employers.

Penalties

If, after investigation, the department finds that the employer has violated the mandatory overtime requirements, the department must issue a written citation to the employer. Each violation is subject to a \$1,000 fine. However, if an employer has three or more violations in a calendar year, the employer is subject to a \$5,000 fine for the fourth violation and \$10,000 fine for each subsequent violation. An employer must post a copy of a citation in the workplace. If the employer fails to pay the fine, or make a satisfactory explanation of the failure to pay, within 30 days after the citation is issued, the employer is liable for a 10 percent penalty on the amount due. The director has a cause of action against the employer to recover the fine.

It is a misdemeanor for an employer:

- to violate the overtime requirement provisions; or
- to refuse to admit the department's authorized representative or, upon request, to willfully neglect or refuse to furnish information under the employer's control. This violation also applies to an agent or employee of the employer.

Appropriation: None.

Fiscal Note: Available.

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