

HOUSE BILL REPORT

HB 1642

As Reported by House Committee On:
Commerce & Labor

Title: An act relating to meal and rest periods for employees of health care facilities.

Brief Description: Regarding meal and rest periods for employees of health care facilities.

Sponsors: Representatives Conway, Green, Wood, Moeller, Williams, Cody, Morrell, Sullivan, Kenney, Simpson and Hudgins.

Brief History:

Committee Activity:

Commerce & Labor: 2/3/09, 2/20/09 [DP].

Brief Summary of Bill

- Requires health care facilities to schedule meal and rest periods for certain registered and licensed practical nurses.
- Provides penalties for health care facilities that violate these and related requirements.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 6 members: Representatives Conway, Chair; Wood, Vice Chair; Crouse, Green, Moeller and Williams.

Minority Report: Do not pass. Signed by 2 members: Representatives Condotta, Ranking Minority Member; Chandler.

Staff: Alison Hellberg (786-7152)

Background:

Under the Washington Industrial Welfare Act, it is unlawful for an employer to employ workers under conditions of labor that are detrimental to their health. The Department of Labor and Industries (Department) is authorized to conduct investigations into employment conditions and to adopt rules establishing employment standards.

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.

The rules governing rest and meal periods require a paid rest period of at least 10 minutes for each four hours of working time. Employees are also allowed a meal period of at least 30 minutes which begins between two and five hours from the beginning of a shift. If an employee works at least three hours longer than a normal work day, the employee is allowed at least one 30-minute meal period during the overtime period. An employee may not work longer than five consecutive hours without a meal period. Where the nature of the work allows, employees may take intermittent rest periods equivalent to 10 minutes for each four hours worked. Scheduled rest periods are not required.

Legislation enacted in 2002 prohibits health care facilities from requiring overtime, except in limited circumstances, for registered nurses and licensed practical nurses involved in direct patient care and paid an hourly wage.

The Department must investigate complaints of mandatory overtime violations. The Department may issue and enforce violations as civil infractions, with a maximum penalty of \$1,000 for each infraction, up to three infractions. If a health care facility has four or more violations, the penalty is \$2,500 for the fourth violation and \$5,000 for each subsequent violation.

Summary of Bill:

Covered health care facilities are required to provide scheduled and uninterrupted meal and rest periods for registered nurses and licensed practical nurses. The meal and rest periods must be of a duration no less than specified in rules adopted by the Department, or otherwise agreed to be provided by the employer, whichever is longer. Violations of these provisions would be subject to the same penalties as violations of the prohibition on mandatory overtime for registered nurses and licensed practical nurses.

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) The concept of intermittent rest breaks is absolutely astonishing. That basically means no breaks, and rest breaks are precious, especially in hospitals where nurses need to be alert and focused. Fatigue puts nurses at risk for making errors. Uninterrupted rest breaks are essential to prevent medical errors and maintain patient safety. Under the current system, taking a break means adding to a colleague's workload. If nurses do not take breaks, they are subject to training on time management and organization, and subject to discipline.

Nurses work in chronically understaffed hospitals and rarely have a chance to take breaks. One of the main reasons that nurses leave the profession is because of the working conditions; this bill addresses the nursing shortage. Meal and rest periods are required, but intermittent rest periods have become the standard.

(Opposed) This would be the first time something would be put in statute related to rest breaks. It is currently only in rule. The Department is in the process of addressing the issue of meal and rest breaks and has regulatory authority over this. The Department should be allowed to bring stakeholders together and deal with this issue. The Ruckelshaus group has also been meeting and talking about this issue.

Times are economically tough, and it is important not to impose new costs on hospitals. The financial situation of hospitals has declined precipitously. The budget cuts a major amount of money that would go to the hospitals and insurance companies are being told not to raise premiums. The number of uninsured people is rising. The economic situation is so bad that hospitals will likely begin closing.

Getting breaks is not the issue. The question is how to interpret and implement the intermittent rest period issue. Hospitals are different from factories. A nurse cannot just leave when dealing with sick humans. On the other hand, nurses need rest and time to relax. There needs to be a balance. A law passed last session established nurse staffing committees in each hospital. This issue should be brought to them to deal with at the hospital level.

(Information only) The intermittent language has been in rule for 32 years. There is no archived information about the rationale for the rule. It predates issues with the construction industry and presumably was adopted to provide small businesses with the ability to staff and provide breaks. The Department and the Employment Law Advisory Committee have struggled with this for a year and have not been successful in resolving it.

Persons Testifying: (In support) Kathy Ormsby, Susan Jacobson, and Anne Piazza, Washington State Nurses Association; and Sharon Ness, United Food and Commercial Workers Union Local 141.

(Opposed) Lisa Thatcher and Leo Greenwalt, Washington State Hospital Association; Craig Wilson, Kittitas Valdez Community Hospital; and Patty Cochrell, Harrison Memorial Hospital.

(Information only) Rich Ervin, Department of Labor and Industries.

Persons Signed In To Testify But Not Testifying: None.