

HB 1715 - S COMM AMD
By Committee on Ways & Means

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 49.12
4 RCW to read as follows:

5 (1) Except as provided in subsection (4) of this section, an
6 employer shall provide employees with meal and rest periods as
7 required by law, subject to the following:

8 (a) Rest periods may be taken at any point during each work
9 period during which the employee is required to receive a rest
10 period; and

11 (b) Meal and rest periods must be uninterrupted, and an employer
12 may not require an employee to take intermittent meal or rest
13 periods. This subsection (1)(b) does not apply when there is:

14 (i) An unforeseeable emergent circumstance, as defined in RCW
15 49.28.130; or

16 (ii) A clinical circumstance that may lead to patient harm
17 without the specific skill or expertise of the employee taking a meal
18 or rest period.

19 (2) The employer shall record when an employee takes or misses a
20 meal or rest period and maintain these records as required by the
21 department.

22 (3) For purposes of this section, the following terms have the
23 following meanings:

24 (a) "Employee" means a person who:

25 (i) Is employed by a health care facility;

26 (ii) Is involved in direct patient care activities or clinical
27 services;

28 (iii) Receives an hourly wage or is covered by a collective
29 bargaining agreement; and

30 (iv) Is a licensed practical nurse or registered nurse licensed
31 under chapter 18.79 RCW, a surgical technologist registered under
32 chapter 18.215 RCW, a diagnostic radiologic technologist or

1 cardiovascular invasive specialist certified under chapter 18.84 RCW,
2 a respiratory care practitioner licensed under chapter 18.89 RCW, or
3 a nursing assistant-certified as defined in RCW 18.88A.020.

4 (b) "Employer" means hospitals licensed under chapter 70.41 RCW.

5 (4) The obligations of this section do not apply to employees who
6 are covered by a collective bargaining agreement that is:

7 (a) In effect on the effective date of this section through the
8 date of termination of that agreement; or

9 (b) Is entered into after the effective date of this section, so
10 long as the agreement specifically addresses meal and rest periods.

11 **Sec. 2.** RCW 49.28.130 and 2011 c 251 s 1 are each amended to
12 read as follows:

13 The definitions in this section apply throughout this section and
14 RCW 49.28.140 and 49.28.150 unless the context clearly requires
15 otherwise.

16 (1)(a) "Employee" means a ~~((licensed practical nurse or a
17 registered nurse licensed under chapter 18.79 RCW))~~ person who:

18 (i) Is employed by a health care facility ((who));

19 (ii) Is involved in direct patient care activities or clinical
20 services ((and));

21 (iii) Receives an hourly wage or is covered by a collective
22 bargaining agreement; and

23 (iv) Is a licensed practical nurse or registered nurse licensed
24 under chapter 18.79 RCW, a surgical technologist registered under
25 chapter 18.215 RCW, a diagnostic radiologic technologist or
26 cardiovascular invasive specialist certified under chapter 18.84 RCW,
27 a respiratory care practitioner licensed under chapter 18.89 RCW, or
28 a certified nursing assistant as defined in RCW 18.88A.020.

29 (b) "Employee" does not mean a person who:

30 (i) Is employed by a health care facility as defined in
31 subsection (3)(a)(v) of this section; and

32 (ii) Is a surgical technologist registered under chapter 18.215
33 RCW, a diagnostic radiologic technologist or cardiovascular invasive
34 specialist certified under chapter 18.84 RCW, a respiratory care
35 practitioner licensed under chapter 18.89 RCW, or a certified nursing
36 assistant as defined in RCW 18.88A.020.

37 (2) "Employer" means an individual, partnership, association,
38 corporation, the state, a political subdivision of the state, or

1 person or group of persons, acting directly or indirectly in the
2 interest of a health care facility.

3 (3)(a) "Health care facility" means the following facilities, or
4 any part of the facility, including such facilities if owned and
5 operated by a political subdivision or instrumentality of the state,
6 that operate on a twenty-four hours per day, seven days per week
7 basis:

8 (i) Hospices licensed under chapter 70.127 RCW;

9 (ii) Hospitals licensed under chapter 70.41 RCW;

10 (iii) Rural health care facilities as defined in RCW 70.175.020;

11 (iv) Psychiatric hospitals licensed under chapter 71.12 RCW; or

12 (v) Facilities owned and operated by the department of
13 corrections or by a governing unit as defined in RCW 70.48.020 in a
14 correctional institution as defined in RCW 9.94.049 that provide
15 health care services (~~to inmates as defined in RCW 72.09.015~~)).

16 (b) If a nursing home regulated under chapter 18.51 RCW or a home
17 health agency regulated under chapter 70.127 RCW is operating under
18 the license of a health care facility, the nursing home or home
19 health agency is considered part of the health care facility for the
20 purposes of this subsection.

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

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

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

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

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

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

38 (d) Seeks personnel from a contracted temporary agency when such
39 staffing is permitted by law or an applicable collective bargaining

1 agreement, and when the employer regularly uses a contracted
2 temporary agency.

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

8 **Sec. 3.** RCW 49.28.140 and 2002 c 112 s 3 are each amended to
9 read as follows:

10 (1) No employee of a health care facility may be required to work
11 overtime. Attempts to compel or force employees to work overtime are
12 contrary to public policy, and any such requirement contained in a
13 contract, agreement, or understanding is void.

14 (2) The acceptance by any employee of overtime is strictly
15 voluntary, and the refusal of an employee to accept such overtime
16 work is not grounds for discrimination, dismissal, discharge, or any
17 other penalty, threat of reports for discipline, or employment
18 decision adverse to the employee.

19 (3) The employer may not use prescheduled on-call time to fill
20 chronic or foreseeable staff shortages.

21 (4) This section does not apply to overtime work that occurs:

22 (a) Because of any unforeseeable emergent circumstance;

23 (b) Because of prescheduled on-call time necessary for immediate
24 and unanticipated patient care emergencies;

25 (c) When the employer documents that the employer has used
26 reasonable efforts to obtain staffing. An employer has not used
27 reasonable efforts if overtime work is used to fill vacancies
28 resulting from chronic staff shortages; or

29 (d) When an employee is required to work overtime to complete a
30 patient care procedure already in progress where the absence of the
31 employee could have an adverse effect on the patient. The employer
32 may not schedule nonemergency procedures that would require
33 overtime."

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1 On page 1, line 2 of the title, after "employees;" strike the
2 remainder of the title and insert "amending RCW 49.28.130 and
3 49.28.140; and adding a new section to chapter 49.12 RCW."

EFFECT: Provides that meal and rest period requirements do not apply to employees who are covered by a collective bargaining agreement that is:

(1) In effect on the effective date of this section through the date of termination of that agreement; or

(2) Entered into after the effective date of this section, so long as the agreement specifically addresses meal and rest periods.

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