

SENATE No. 1209

The Commonwealth of Massachusetts

PRESENTED BY:

Jacob R. Oliveira

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to prohibit mandatory overtime.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Jacob R. Oliveira</i>	<i>Hampden, Hampshire and Worcester</i>	
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>1/30/2023</i>
<i>Patricia A. Duffy</i>	<i>5th Hampden</i>	<i>2/2/2023</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>2/8/2023</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>2/8/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/21/2023</i>

SENATE No. 1209

By Mr. Oliveira, a petition (accompanied by bill, Senate, No. 1209) of Jacob R. Oliveira, Jack Patrick Lewis, Patricia A. Duffy, James K. Hawkins and other members of the General Court for legislation to prohibit mandatory overtime. Labor and Workforce Development.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act to prohibit mandatory overtime.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 111 of the Massachusetts General Laws, as appearing in the 2020
2 Official Edition, is hereby amended by striking out section 226, and inserting in place thereof the
3 following section:-

4 Section 226. (a) For the purposes of this section the following words shall, unless the
5 context clearly requires otherwise, have the following meanings:

6 "Facility" shall mean a hospital licensed under section 51 of this chapter, the teaching
7 hospital of the University of Massachusetts medical school, any licensed private or state-owned
8 and state-operated general acute care hospital, an acute psychiatric hospital, an acute care
9 specialty hospital, any acute care unit within a state operated healthcare facility, or a medium-
10 security state correctional facility for male inmates located in Plymouth County that is operated
11 and maintained by a private company under contract with the Department of Corrections. For

12 purposes of this section, facility shall not include rehabilitation facilities, skilled nursing
13 facilities, other long-term care facilities, or any other Massachusetts correctional facilities.

14 "Health Care Workforce" shall mean personnel employed by or contracted to work at a
15 facility who have an effect upon the delivery of quality care to patients, including but not limited
16 to registered nurses, licensed practical nurses, unlicensed assistive personnel, service,
17 maintenance, clerical, professional and technical workers, and all other health care workers. For
18 purposes of this section, doctors, interns, residents and facility management personnel, as well as
19 any correctional facility security personnel not providing health care services, shall not be
20 considered the health care workforce.

21 "Mandatory Overtime" shall mean any hours worked by a member of the health care
22 workforce in a facility to deliver patient care, beyond the predetermined and regularly scheduled
23 number of hours that the hospital and a member of the health care workforce have agreed that the
24 employee shall work, provided that in no case shall such predetermined and regularly scheduled
25 number of hours exceed 12 hours in any 24-hour period.

26 (b) Notwithstanding any general or special law to the contrary, a facility shall not require
27 a member of the health care workforce to work mandatory overtime except in the case of an
28 emergency situation where the safety of the patient requires its use and when there is no
29 reasonable alternative.

30 (c) Under subsection (b), whenever there is an emergency situation where the safety of a
31 patient requires its use and when there is no reasonable alternative, the facility shall, before
32 requiring overtime, make a good faith effort to have such hours covered on a voluntary basis.

33 Mandatory overtime shall not be used as a regular practice for providing appropriate staffing for
34 the level of patient care required.

35 (d) Under subsection (c), the health policy commission established under section 2 of
36 chapter 6D, shall further develop guidelines and procedures to determine what constitutes an
37 emergency situation for the purposes of allowing mandatory overtime. In developing those
38 guidelines, the commission shall consult with those employees and employers who would be
39 affected by such a policy. The commission shall solicit comment from those same parties
40 through a public hearing.

41 (e) Facilities shall report all instances of mandatory overtime and the circumstances
42 requiring its use to the department of public health or, in the case of the aforementioned medium-
43 security state correctional institution, by the contracting management company and to the
44 department of corrections. Such reports shall be public documents.

45 (f) A member of the health care workforce shall not be allowed to exceed 16 consecutive
46 hours worked in a 24-hour period. In the event a member of the health care workforce works 16
47 consecutive hours, that member of the health care workforce must be given at least 8 consecutive
48 hours of off-duty time immediately-after the worked overtime.

49 (g) This section is intended as a remedial measure to protect the public health and the
50 quality and safety of patient care and shall not be construed to diminish or waive any rights of
51 the member of the healthcare workforce under other laws, regulations or collective bargaining
52 agreements. The refusal of a member of the healthcare workforce to accept work in excess of the
53 limitations set forth in this section shall not be grounds for discrimination, dismissal, discharge
54 or any other employment decision.