
HOUSE BILL 2061

State of Washington

68th Legislature

2024 Regular Session

By Representative Bronoske

Prefiled 12/29/23.

1 AN ACT Relating to defining an employee of a health care facility
2 for purposes of mandatory overtime provisions; and amending RCW
3 49.28.130.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 49.28.130 and 2019 c 296 s 2 are each amended to
6 read 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)(a) "Employee" means a person who:

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

12 (ii) Is involved in direct patient care activities or clinical
13 services; and

14 (iii) Receives an hourly wage or is covered by a collective
15 bargaining agreement (~~;~~ and

16 ~~(iv) Is either:~~

17 ~~(A) A licensed practical nurse or registered nurse licensed under
18 chapter 18.79 RCW; or~~

19 ~~(B) Beginning July 1, 2020, a surgical technologist registered
20 under chapter 18.215 RCW, a diagnostic radiologic technologist or
21 cardiovascular invasive specialist certified under chapter 18.84 RCW,~~

1 ~~a respiratory care practitioner licensed under chapter 18.89 RCW, or~~
2 ~~a nursing assistant certified as defined in RCW 18.88A.020).~~

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

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

6 (ii) Is a surgical technologist registered under chapter 18.215
7 RCW, a diagnostic radiologic technologist or cardiovascular invasive
8 specialist certified under chapter 18.84 RCW, a respiratory care
9 practitioner licensed under chapter 18.89 RCW, or a certified nursing
10 assistant as defined in RCW 18.88A.020.

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

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

20 (i) Hospices licensed under chapter 70.127 RCW;

21 (ii) Hospitals licensed under chapter 70.41 RCW, except that
22 until July 1, 2021, the provisions of section 3, chapter 296, Laws of
23 2019 do not apply to:

24 (A) Hospitals certified as critical access hospitals under 42
25 U.S.C. Sec. 1395i-4;

26 (B) Hospitals with fewer than twenty-five acute care beds in
27 operation; and

28 (C) Hospitals certified by the centers for medicare and medicaid
29 services as sole community hospitals as of January 1, 2013, that:
30 Have had less than one hundred fifty acute care licensed beds in
31 fiscal year 2011; have a level III adult trauma service designation
32 from the department of health as of January 1, 2014; and are owned
33 and operated by the state or a political subdivision;

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

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

36 (v) Facilities owned and operated by the department of
37 corrections or by a governing unit as defined in RCW 70.48.020 in a
38 correctional institution as defined in RCW 9.94.049 that provide
39 health care services.

1 (b) If a nursing home regulated under chapter 18.51 RCW or a home
2 health agency regulated under chapter 70.127 RCW is operating under
3 the license of a health care facility, the nursing home or home
4 health agency is considered part of the health care facility for the
5 purposes of this subsection.

6 (4) "Overtime" means the hours worked in excess of an agreed
7 upon, predetermined, regularly scheduled shift within a (~~twenty-four~~
8 ~~hour~~) 24-hour period not to exceed (~~twelve~~) 12 hours in a
9 (~~twenty-four-hour~~) 24-hour period or (~~eighty~~) 80 hours in a
10 consecutive (~~fourteen-day~~) 14-day period.

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

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

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

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

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

24 (d) Seeks personnel from a contracted temporary agency when such
25 staffing is permitted by law or an applicable collective bargaining
26 agreement, and when the employer regularly uses a contracted
27 temporary agency.

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

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