

2 **SB 6675** - S AMD 587
3 By Senators Prentice and Deccio

4 ADOPTED 02/18/02

5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** Washington state is experiencing a critical
8 shortage of qualified, competent health care workers. To safeguard the
9 health, efficiency, and general well-being of health care workers and
10 promote patient safety and quality of care, the legislature finds, as
11 a matter of public policy, that required overtime work should be
12 limited with reasonable safeguards in order to ensure that the public
13 will continue to receive safe, quality care.

14 NEW SECTION. **Sec. 2.** The definitions in this section apply
15 throughout this section and sections 3 and 4 of this act unless the
16 context clearly requires otherwise.

17 (1) "Employee" means a licensed practical nurse or a registered
18 nurse licensed under chapter 18.79 RCW employed by a health care
19 facility who is involved in direct patient care activities or clinical
20 services and receives an hourly wage.

21 (2) "Employer" means an individual, partnership, association,
22 corporation, state institution, political subdivision of the state, or
23 person or group of persons, acting directly or indirectly in the
24 interest of a health care facility.

25 (3) "Health care facility" means the following facilities, or any
26 part of the facility, that operates on a twenty-four hours per day,
27 seven days per week basis: Hospices licensed under chapter 70.127 RCW,
28 hospitals licensed under chapter 70.41 RCW, rural health care
29 facilities as defined in RCW 70.175.020, and psychiatric hospitals
30 licensed under chapter 71.12 RCW, and includes such facilities if owned
31 and operated by a political subdivision or instrumentality of the
32 state. If a nursing home regulated under chapter 18.51 RCW or a home
33 health agency regulated under chapter 70.127 RCW is operating under the
34 license of a health care facility, the nursing home or home health

1 agency is considered part of the health care facility for the purposes
2 of this subsection.

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

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

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

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

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

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

20 (d) Seeks personnel from a contracted temporary agency when such
21 staffing is permitted by law or an applicable collective bargaining
22 agreement, and when the employer regularly uses a contracted temporary
23 agency.

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

29 NEW SECTION. **Sec. 3.** (1) No employee of a health care facility
30 may be required to work overtime. Attempts to compel or force
31 employees to work overtime are contrary to public policy, and any such
32 requirement contained in a contract, agreement, or understanding is
33 void.

34 (2) The acceptance by any employee of overtime is strictly
35 voluntary, and the refusal of an employee to accept such overtime work
36 is not grounds for discrimination, dismissal, discharge, or any other
37 penalty, threat of reports for discipline, or employment decision
38 adverse to the employee.

1 (3) This section does not apply to overtime work that occurs:
2 (a) Because of any unforeseeable emergent circumstance;
3 (b) Because of prescheduled on-call time;
4 (c) When the employer documents that the employer has used
5 reasonable efforts to obtain staffing. An employer has not used
6 reasonable efforts if overtime work is used to fill vacancies resulting
7 from chronic staff shortages; or
8 (d) When an employee is required to work overtime to complete a
9 patient care procedure already in progress where the absence of the
10 employee could have an adverse effect on the patient.

11 NEW SECTION. **Sec. 4.** The department of labor and industries shall
12 investigate complaints of violations of section 3 of this act. A
13 violation of section 3 of this act is a class 1 civil infraction in
14 accordance with chapter 7.80 RCW, except that the maximum penalty is
15 one thousand dollars for each infraction up to three infractions. If
16 there are four or more violations of section 3 of this act for a health
17 care facility, the employer is subject to a fine of two thousand five
18 hundred dollars for the fourth violation, and five thousand dollars for
19 each subsequent violation. The department of labor and industries is
20 authorized to issue and enforce civil infractions according to chapter
21 7.80 RCW.

22 NEW SECTION. **Sec. 5.** Sections 2 through 4 of this act are each
23 added to chapter 49.28 RCW."

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27 On page 1, line 2 of the title, after "work;" strike the remainder
28 of the title and insert "adding new sections to chapter 49.28 RCW;
29 creating a new section; and prescribing penalties."

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