

SENATE BILL REPORT

SB 6120

As Reported By Senate Committee On:
Labor & Workforce Development, January 27, 2000

Title: An act relating to mandatory overtime.

Brief Description: Prohibiting mandatory overtime.

Sponsors: Senators Fairley, Prentice, Costa, Brown, Kohl-Welles, Jacobsen, Patterson, Gardner, Kline and Spanel.

Brief History:

Committee Activity: Labor & Workforce Development: 1/13/2000, 1/27/2000 [DPS, DNPS].

SENATE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 6120 be substituted therefor, and the substitute bill do pass.

Signed by Senators Fairley, Chair; Franklin, Vice Chair; Kline and Wojahn.

Minority Report: Do not pass substitute.

Signed by Senator Hochstatter.

Staff: Jill Reinmuth (786-7452)

Background: Under both federal and state law, employers may require employees to work more than 40 hours per work week. Most employees must be compensated at one and one-half times the regular hourly wage for hours worked in excess of 40 hours per work week.

Summary of Substitute Bill: Mandatory overtime is generally prohibited. Voluntary overtime continues to be permitted, and overtime compensation continues to be required.

Generally: Employers may not require employees to work more than eight hours per day or 40 hours per work week, or if the work week is based on four 10-hour days, more than 10 hours per day. However, employers may require employees to work overtime if the employees are exempt, a variance is granted, or an unanticipated event may halt a primary metal or paper processing operation.

Exempt Employees: An employer may require an employee to work overtime if:

- the employee is exempt from state minimum wage or overtime compensation requirements;
- the employee works in fire protection, law enforcement, or emergency medical services, or performs emergency work necessary for public health and safety; and
- the employee works in food or fish packing or processing, or aquaculture.

Variance: An employer may require an employee to work overtime, but no more than 12 hours per day, or an average of 42 hours per work week for four consecutive work weeks, if 80 percent of the employees in the work group or bargaining unit agree, and the Department of Labor and Industries grants a variance.

Primary Metal or Paper Processing: An employer may require an employee to work part of the next succeeding work shift, but no more than 12 consecutive hours, or two consecutive shifts, or 16 additional hours per calendar month, if: (1) the work is required because of an unanticipated event and that event may halt a continuous production operation involving primary metal processing or paper processing; (2) the employer attempts to obtain voluntary work or the employee has critical skills and expertise; and (3) the employer has successfully assisted the employee with transportation, child care, and other needs.

Other Provisions: An employee may bring an action against an employer who discharges or otherwise discriminates against the employee for exercising his or her rights under the new overtime provisions. The new overtime provisions do not apply to employees covered by a conflicting collective bargaining agreement until the agreement expires, or to employees covered by a collective bargaining agreement that provides greater rights than state law. The director of the Department of Labor and Industries is authorized to make rules.

Substitute Bill Compared to Original Bill: Employers may require employees that work in food or fish packing or processing, or aquaculture to work overtime. Employers must comply with collective bargaining agreements that provide greater rights than state law. The director of the Department of Labor and Industries is authorized to make rules. Other technical changes are made.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Mandatory overtime limits an employee's control over his or her life. It is a form of involuntary servitude.

Repetitive mandatory overtime raises health and safety issues. The federal Occupational Safety and Health Administration (OSHA) limits for exposure to toxins are based on 40-hour work weeks. When there is not enough time off for chemicals to be flushed out, there is a greater incidence of occupational disease.

Families are victims of mandatory overtime. Working parents have less time to spend with their children. They also have difficulty arranging for child care, especially when mandatory overtime is not scheduled in advance.

Communities are also victims. Working parents need time to be active in schools and volunteer organizations.

When high tech employers require mandatory overtime, workers have no tools to push back. There is no disincentive for employers to require mandatory overtime because there is no obligation to pay overtime compensation to professional computer employees.

Workers have been terminated or otherwise disciplined for refusing to work mandatory overtime.

Testimony Against: Washington has the highest labor costs for manufacturing in the country. It must address its growing lack of competitiveness. It must ensure that employers have flexibility.

Prohibiting mandatory overtime will increase worker payroll taxes, result in greater reliance on temporary workers and more frequent layoffs of permanent workers, and reduce flexibility.

Comprehensive reform of ambiguous and inconsistent wage and hour laws is needed.

An exemption for planting and harvesting crops is needed. Rules could not be made to determine when seasonal factors could result in the loss or deterioration of perishable products.

An exemption for small businesses is needed. This prohibition is designed for big business, but will hurt small business. Costs of hiring more workers or obtaining variances are too high for small businesses. Mandatory overtime should be addressed in collective bargaining agreements, not in legislation.

An exemption for emergency medical services is needed.

Testified: PRO: Robby Stern, Jeff Johnson, Washington State Labor Council; Marcus Courtney, Washington Alliance of Technology Workers; Fred Tricarico, Communication Workers of America; Harold Abbe, Association of Western Pulp and Paper Workers; CON: Clif Finch, Association of Washington Business; Julie Murray, Washington Farm Bureau; Carolyn Logue, National Federation of Independent Business; Susie Tracy, American Medical Response and Airlift Northwest.