

# HOUSE BILL REPORT

## HB 1306

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**As Reported by House Committee On:**  
Commerce & Labor

**Title:** An act relating to revising the mandatory overtime prohibition applicable to nurses, but only with respect to increasing the types of health care facilities that are subject to the prohibition from requiring nurses to perform overtime work.

**Brief Description:** Extending prohibition of mandatory overtime to nurses in the public sector.

**Sponsors:** Representatives Green, Morrell, Cody, Williams, Conway, Darneille, Hurst, Campbell, Chase, Simpson, Wood and Moeller.

**Brief History:**

**Committee Activity:**

Commerce & Labor: 1/26/07, 2/9/07 [DP].

**Brief Summary of Bill**

- Adds various public facilities, including state hospitals, veterans' homes, residential habilitation centers, and correctional facilities, to the health care facilities prohibited from requiring overtime from their nursing staff.

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** Do pass. Signed by 5 members: Representatives Conway, Chair; Wood, Vice Chair; Green, Moeller and Williams.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Condotta, Ranking Minority Member and Chandler, Assistant Ranking Minority Member.

**Staff:** Jill Reinmuth (786-7134).

**Background:**

Both federal and Washington minimum wage laws establish requirements related to overtime work. These laws require covered employees to receive overtime pay for hours worked over 40 hours per week. Another state law requires overtime compensation for certain full-time employees, including nursing staff, of state institutions under the control of the Department of

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Social and Health Services (DSHS) or the Department of Corrections (DOC) after eight hours of work in a work day or 40 hours of work in a work week. With some exceptions, these wage laws do not prohibit an employer from requiring employees to work overtime.

One exception enacted in 2002 prohibits covered health care facilities from requiring overtime, except in limited circumstances, for registered nurses and licensed practical nurses who are involved in direct patient care and paid an hourly wage. For this prohibition on mandatory overtime, overtime means work in excess of an agreed upon, regularly scheduled shift of not more than 12 hours in a 24-hour period, or 80 hours in a 14-day period. A health care facility means a facility that is licensed under specified laws as a hospital, a hospice, a rural health care facility, or a psychiatric hospital. A nursing home or a home health agency is considered part of a health care facility if the nursing home or home health agency is operating under the license of the health care facility.

The state psychiatric hospitals and other institutions operated by the DSHS or the DOC are not licensed under the statutes specified in the overtime prohibition law. Home health agencies are not authorized to operate under a license of a health care facility.

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### **Summary of Bill:**

The following entities are added to the list of health care facilities covered under the prohibition on mandatory overtime law for certain registered and licensed practical nurses:

- state hospitals that are operated and maintained by the state for the care of the mentally ill; (these facilities are Western State Hospital, Eastern State Hospital, and the Child Study and Treatment Center)
- state veterans' homes; (these homes are the Washington Soldiers' Home, the Washington Veterans' Home, and the Eastern Washington Veterans' Home)
- residential habilitation centers established to provide services to persons with developmental disabilities; (these centers are Lakeland Village, Rainier School, Yakima Valley School, Fircrest School, Frances Haddon Morgan Children's Center, Interlake School, and facilities at Harrison Memorial Hospital)
- state or local correctional institutions with respect to facilities owned and operated by the state or by local governments that provide health care services to adult inmates; and
- facilities that provide health care in an institution for juveniles committed to the custody of the DSHS or in a county detention facility where juveniles are confined.

The requirement is deleted for home health agencies to be covered if operating under the license of a health care facility.

For certain employees of the DSHS or the DOC who are entitled to overtime compensation, the applicable overtime requirements are subject to the prohibition on mandatory overtime law if the employees are covered employees of a health care facility under that law.

**Rules Authority:** The bill does not address the rule-making powers of an agency.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:**

(In support) There is currently a labor standard for mandatory overtime applicable to the private sector. This bill would extend this protection to the public sector. This standard is needed to ensure public safety and to improve recruitment and retention of nurses.

Nurses required to work overtime must make many critical decisions about patient care. They deal with cardiac arrest, accidental drug overdoses, alcohol-related seizures, diabetes-related treatments, mental health issues, and even childbirth. They make these decisions based on objective information and nursing instincts, and need their assessment skills to be sharp. It is more difficult to concentrate and make these decisions when you are working a second shift and are overly-tired. Nurses required to work overtime also must put aside family obligations.

Extending the private sector protections to the public sector will improve patient care and help with recruitment and retention. The Department of Social and Health Services and other public employers should behave like other institutional employers in Washington.

This bill is more narrow than past proposals. It does not make changes to the labor standard itself.

In some industries -- e.g., rail and trucking -- both mandatory and voluntary overtime are prohibited.

(Information) The Department of Labor and Industries would need a small amount -- \$5,000 -- to get the word out about the labor standard to public sector employers and employees.

(With concerns) The issue of mandatory overtime is one that comes up and is dealt with at the bargaining table. If enacted, this bill would require us to reopen contracts.

(Opposed) None.

**Persons Testifying:** (In support) Representative Green, prime sponsor; Anne Tan Piazza, Jim Gleckler, and Ed Dolle, Washington State Nurses Association; Toni Penuel, Service Employees International Union District 1199NW.

(Information) Patrick Woods and Suchi Sharma, Department of Labor and Industries.

(With concerns) Victor Moore, Office of Financial Management.

**Persons Signed In To Testify But Not Testifying: None.**