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SENATE BILL 6309

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State of Washington

62nd Legislature

2012 Regular Session

By Senators Prentice, Conway, Kohl-Welles, Keiser, Kline, Pridemore, Chase, Harper, Frockt, McAuliffe, Shin, and Nelson

Read first time 01/17/12. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to meals and rest breaks for certain health care  
2 workers; adding new sections to chapter 49.12 RCW; creating a new  
3 section; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature intends to assure that  
6 health care workers in Washington state hospitals are able to take  
7 uninterrupted meal and rest breaks to minimize fatigue and its effects  
8 on patient safety and quality of care. The legislature further intends  
9 to set a statewide standard of uninterrupted breaks and to define  
10 circumstances in which breaks may be interrupted by unusual events and  
11 consistent with the professional judgment of the nurses. The  
12 legislature recognizes a mutual and shared commitment to uninterrupted  
13 breaks: Hospitals are responsible for creating a work environment in  
14 which health care workers are able and encouraged to take uninterrupted  
15 breaks.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.12 RCW  
17 to read as follows:

18 (1) Employees must be allowed an uninterrupted meal period of at

1 least thirty minutes that commences no less than two hours, nor more  
2 than five hours, from the beginning of the shift. Meal periods must be  
3 on the employer's time when the employee is required by the employer to  
4 remain on duty on the premises or at a prescribed work site in the  
5 interest of the employer to be immediately available to perform work  
6 duties. An employee is not required to work more than five consecutive  
7 hours without a meal period.

8 (2) Employees must be allowed an uninterrupted rest period, on the  
9 employer's time for each four hours of working time, during which the  
10 employee is relieved from work duties. The rest period must not be  
11 less than ten minutes, but may be longer if provided for in a  
12 collective bargaining agreement or other employer policy in the absence  
13 of a collective bargaining agreement. Rest periods may be taken at any  
14 point during each four hour work period.

15 (3) The definitions in RCW 49.28.130 apply to this section except  
16 for the definition of "employee." For the purposes of this section,  
17 "employee" means a person who is involved in direct patient care  
18 activities or clinical services working for and on the premises of an  
19 acute care inpatient hospital, receives an hourly wage, or is covered  
20 by a collective bargaining agreement, and is a:

21 (a) Licensed practical nurse or a registered nurse licensed under  
22 chapter 18.79 RCW;

23 (b) Surgical technologist registered under chapter 18.215 RCW when  
24 involved in direct patient care;

25 (c) Diagnostic radiologic technologist certified under chapter  
26 18.84 RCW when involved in direct patient care;

27 (d) Respiratory technician licensed under chapter 18.89 RCW when  
28 involved in direct patient care;

29 (e) Certified nursing assistant as defined under RCW 18.88A.020  
30 when involved in direct patient care; or

31 (f) Cardiovascular invasive specialist as defined in chapter 18.84  
32 RCW when involved in direct patient care.

33 NEW SECTION. **Sec. 3.** A new section is added to chapter 49.12 RCW  
34 to read as follows:

35 (1) Except as set forth in subsection (2) of this section, employee  
36 meal and rest breaks required under section 2 of this act must be  
37 uninterrupted.

1 (2) Paid meal and rest periods may be interrupted or delayed when:

2 (a) A national, state, or municipal government declares an  
3 emergency;

4 (b) The hospital activates its disaster plan;

5 (c) The hospital determines that an unforeseen disaster,  
6 catastrophic event, or other nonroutine extraordinary circumstance,  
7 either internal or external to the hospital, will substantially affect  
8 or increase the need for health care or substantially reduce the  
9 hospital's capacity to provide health care. This does not include  
10 chronic staffing shortages; or

11 (d) The employee on, or scheduled for, break determines a clinical  
12 circumstance could lead to patient harm without the skill, expertise,  
13 or knowledge of the employee on, or scheduled for, a break.

14 NEW SECTION. **Sec. 4.** A new section is added to chapter 49.12 RCW  
15 to read as follows:

16 (1) Each hospital licensed under chapter 70.41 RCW or defined under  
17 RCW 72.23.010 must have and maintain one or more specific mechanisms  
18 under which employees are able to, and do take, meal and rest breaks.  
19 The mechanism must be implemented or maintained based on information  
20 from employees providing direct patient care on each unit and shift,  
21 management, and other relevant sources.

22 (2) The mechanism must include training during orientation for new  
23 and training of current managers, human resource staff, and nurses on  
24 each unit concerning the importance of taking breaks, the importance of  
25 and system for keeping records of breaks, and nonretaliation policies.

26 (3) Each hospital must collect, at a minimum, data on meal and rest  
27 breaks not taken by employees.

28 NEW SECTION. **Sec. 5.** A new section is added to chapter 49.12 RCW  
29 to read as follows:

30 A hospital may not retaliate against or engage in any form of  
31 intimidation of any employee who reports a missed break or concerns  
32 regarding the hospital's practices regarding breaks. The hospital must  
33 promptly investigate any accusation of retaliation and take appropriate  
34 corrective action.

1        NEW SECTION.   **Sec. 6.**   A new section is added to chapter 49.12 RCW  
2   to read as follows:

3        When a hospital is found to be out of compliance with the  
4   requirements of sections 2 through 6 of this act, the department shall  
5   at a minimum require the hospital to submit a corrective plan of  
6   action.   In the event that a hospital submits but fails to follow the  
7   corrective plan of action, the department may impose a penalty of one  
8   hour of pay for each missed break from the employer to the affected  
9   employee.

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