

ASSEMBLY, No. 3303

STATE OF NEW JERSEY

209th LEGISLATURE

INTRODUCED MARCH 22, 2001

Sponsored by:

Assemblyman JACK COLLINS
District 3 (Salem, Cumberland and Gloucester)
Assemblyman JACK CONNERS
District 7 (Burlington and Camden)

Co-Sponsored by:

Assemblyman Kelly

SYNOPSIS

Prohibits health care facilities from requiring certain hourly wage employees to perform overtime work.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/4/2001)

1 **AN ACT** concerning work hours for certain health care facility
2 employees and supplementing P.L.1966, c.113 (C.34:11-56a et
3 seq.).

4

5 **BE IT ENACTED by the Senate and General Assembly of the State**
6 **of New Jersey:**

7

8 1. It is declared to be the public policy of this State to establish
9 a maximum work day and work week for certain hourly wage health
10 care facility employees, beyond which the employees cannot be
11 required to perform overtime work, in order to safeguard their health,
12 efficiency, and general well-being as well as the health and general
13 well-being of the persons to whom these employees provide services.

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15 2. As used in this act:

16 "Employee" means an individual employed by a health care facility
17 who is involved in direct patient care activities or clinical services and
18 who receives an hourly wage.

19 "Employer" means an individual, partnership, association,
20 corporation or person or group of persons acting directly or indirectly
21 in the interest of a health care facility.

22 "Health care facility" means a health care facility licensed by the
23 Department of Health and Senior Services pursuant to P.L.1971, c.136
24 (C.26:2H-1 et seq.).

25 "Unforeseeable emergent circumstance" means an unpredictable or
26 unavoidable occurrence at unscheduled intervals relating to health care
27 delivery that requires immediate action.

28

29 3. The requirement that an employee of a health care facility
30 accept work in excess of an agreed to, predetermined and regularly
31 scheduled daily work shift, not to exceed 40 hours per week, except
32 in the case of an unforeseeable emergent circumstance when the
33 overtime is required only as a last resort and is not used to fill
34 vacancies resulting from chronic short staffing, is declared to be
35 contrary to public policy and any such requirement contained in any
36 contract, agreement or understanding executed after the effective date
37 of this act shall be void.

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39 4. a. Notwithstanding any provision of law to the contrary, no
40 health care facility shall require an employee to accept work in excess
41 of an agreed to, predetermined and regularly scheduled daily work
42 shift, not to exceed 40 hours per week.

43 b. The acceptance by any employee of such work in excess of an
44 agreed to, predetermined and regularly scheduled daily work shift, not
45 to exceed 40 hours per week, shall be strictly voluntary and the refusal
46 of any employee to accept such overtime work shall not be grounds

for discrimination, dismissal, discharge or any other penalty or employment decision adverse to the employee.

3 c. The provisions of this section shall not apply in the case of an
4 unforeseeable emergent circumstance when the overtime is required
5 only as a last resort and is not used to fill vacancies resulting from
6 chronic short staffing.

7

8 5. An employer who violates the provisions of this act shall be
9 subject to the sanctions provided by law for violations of the "New
10 Jersey State Wage and Hour Law," P.L.1966, c.113 (C.34:11-56a et
11 seq.).

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13 6. This act shall take effect immediately.

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STATEMENT

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18 This bill supplements the "New Jersey State Wage and Hour Law"
19 by establishing a maximum work day and work week for hourly wage
20 health care facility employees.

21 Currently, health care facilities are not prohibited from requiring
22 that their hourly wage employees accept overtime work. Therefore,
23 although overtime work is generally viewed as a voluntary offering,
24 health care facilities can demand that their hourly wage employees
25 perform paid involuntary overtime services or be subject to
26 employment decisions adverse to the workers, such as discharge or
27 demotion.

This bill would make it a violation of the "New Jersey State Wage and Hour Law" for a health care facility to require hourly wage employees who are involved in direct patient care activities or clinical services to accept work in excess of an agreed to, predetermined and regularly scheduled daily work shift, not to exceed 40 hours per week, except in the case of an unforeseeable emergent circumstance (defined as "an unpredictable or unavoidable occurrence at unscheduled intervals relating to health care delivery that requires immediate action") when the overtime is required only as a last resort and is not used to fill vacancies resulting from chronic short staffing. The bill specifically provides that the acceptance of such overtime work would be strictly voluntary and the refusal of such overtime work would not expose employees to discrimination, dismissal, discharge or any other penalty or employment decision adverse to the employee.

42 The bill specifies that the requirement that an employee of a health
43 care facility accept work in excess of an agreed to, predetermined and
44 regularly scheduled daily work shift, not to exceed 40 hours per week,
45 except in the case of an unforeseen emergent circumstance when the
46 overtime is required only as a last resort and is not used to fill

1 vacancies resulting from chronic short staffing, is declared to be
2 contrary to public policy and any such requirement contained in any
3 contract, agreement or understanding executed after the effective date
4 of this bill shall be void.

5 Finally, the bill provides that health care facilities which require
6 these hourly wage employees to accept involuntary overtime work
7 shall be subject to the sanctions set forth in the "New Jersey State
8 Wage and Hour Law," which sanctions include payment of
9 administrative penalties, fines, and possible imprisonment as well as
10 reinstatement of wrongfully discharged employees with payment of any
11 lost wages.