

S.277

Introduced by Senator Gulick

Referred to Committee on

Date:

Subject: Labor; employment practices; minimum wages; mandatory overtime

Statement of purpose of bill as introduced: This bill proposes to prohibit
mandatory overtime for nurses except in emergency circumstances.

An act relating to prohibiting mandatory overtime for nurses

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 21 V.S.A. § 388 is added to read:

§ 388. PROHIBITION ON MANDATORY OVERTIME FOR NURSES

(a) Policy. The purpose of this section is to promote patient safety, protect
the health of nurses, and improve working conditions in hospitals and long-
term care facilities for nurses providing direct patient care or clinical services
to patients by prohibiting mandatory overtime.

(b) Definitions. As used in this section:

(1) “Employer” means a hospital or a long-term care facility.

(2) “Hospital” means a place devoted primarily to the maintenance and
operation of diagnostic and therapeutic facilities for inpatient medical or

1 surgical care of individuals who have an illness, disease, injury, or physical
2 disability, or for obstetrics that is licensed or required to be licensed pursuant
3 to 18 V.S.A. chapter 43.

4 (3) “Long-term care facility” means a residential care home, nursing
5 home, assisted living residence, home for persons who are terminally ill, or
6 therapeutic community residence that is licensed or required to be licensed
7 pursuant to 33 V.S.A. chapter 71.

8 (4) “Mandatory overtime” means work that is required of a nurse by an
9 employer in excess of an agreed-upon, predetermined, regularly scheduled
10 shift, provided that in no case shall the predetermined and regularly scheduled
11 number of hours exceed 12 hours in any 24-hour period or 48 hours in any
12 workweek.

13 (5) “Nurse” means a registered nurse or a licensed practical nurse
14 required to be licensed pursuant to 26 V.S.A. chapter 28, subchapter 1, and
15 who receives an hourly wage and has direct responsibility to oversee or carry
16 out nursing care in a hospital or a long-term care facility setting.

17 (6) “On-call time” means time spent by a nurse who is not working but
18 who is compensated for being available.

19 (c) Prohibition on mandatory overtime. No nurse shall be required to work
20 mandatory overtime. A nurse may not be disciplined for refusing to work in
21 excess of an agreed-upon, predetermined, regularly scheduled shift but may be

1 disciplined for refusing to work mandatory overtime if any of the exceptions to
2 the prohibition on mandatory overtime pursuant to subsection (d) of this
3 section apply.

4 (d) Exceptions to prohibition on mandatory overtime. Notwithstanding
5 subsection (c) of this section, the prohibition against mandatory overtime shall
6 not apply if:

7 (1) a federal, State, or local state of emergency has been declared;
8 (2) the nurse is actively engaged in an ongoing medical or surgical
9 procedure and the continued presence of the nurse through the completion of
10 the procedure is necessary to the health and safety of the patient; or

11 (3) an unforeseen disaster or other catastrophic event occurs that
12 substantially affects or increases the need for health care services. An
13 unforeseen disaster or catastrophic event is one that does not occur regularly,
14 increases the need for nurses to provide safe patient care, and could not be
15 prudently anticipated by the employer. It does not include situations in which
16 the employer fails to have sufficient nursing staff to meet the usual and
17 predictable nursing needs of its patients.

18 (e) Good faith effort required. If an employer determines that an exception
19 exists pursuant to subsection (d) of this section, the employer shall make a
20 good faith effort to meet the staffing need through voluntary overtime or
21 calling per diems and agency nurses before requiring mandatory overtime.

1 (f) On call time. The provisions of this section shall not apply to on-call
2 time, but an employer may not use on-call time as a substitute for mandatory
3 overtime.

4 (g) Voluntary overtime. A nurse may voluntarily agree to work overtime.

5 (h) Off duty. Any nurse who works more than 12 consecutive hours, as
6 permitted by this section, must be allowed at least 10 consecutive hours off-
7 duty immediately following the worked overtime.

8 (i) Collective bargaining agreements. Nothing in this section shall be
9 construed to limit, alter, or modify the terms, conditions, or provisions of a
10 collective bargaining agreement entered into between an employer and a labor
11 organization representing nurses.

12 Sec. 2. 21 V.S.A. § 389 is added to read:

13 § 389. REPORT ON MANDATORY OVERTIME FOR NURSES; NOTICE

14 (a) Employers shall report all instances of mandatory overtime and the
15 circumstances requiring its use to the Vermont Department of Health within 30
16 days after occurrence. The report shall be in writing and shall include:

17 (1) an explanation for the use of mandatory overtime and identification
18 of any applicable exception to the prohibition on mandatory overtime pursuant
19 to subsection 388(d) of this subchapter; and

1 (2) the good faith efforts the employer undertook to meet the staffing
2 need, pursuant to subsection 388(e) of this subchapter, before requiring
3 mandatory overtime.

4 (b) Reports shall be subject to inspection and copying pursuant to 1 V.S.A.
5 chapter 5, subchapter 3. Any personally identifiable information about nurses
6 or patients shall be redacted from the reports prior to inspection and copying.

7 (c) Employers shall post and maintain in a conspicuous place in each of the
8 employer's places of business a printed notice of the provisions of section 388
9 of this subchapter.

10 Sec. 3. 21 V.S.A. § 390 is added to read:

11 § 390. INVESTIGATION OF COMPLAINTS; PENALTIES

12 (a) The Commissioner of Labor shall have the power and authority as set
13 forth in section 385 of this subchapter to investigate complaints brought
14 pursuant to section 388 of this subchapter.

15 (b) An employer who is determined to have violated section 388 of this
16 subchapter shall be fined \$1,000.00 for the first violation, \$1,500.00 for the
17 second violation, and \$2,000.00 for the third and any subsequent violations.

18 (c) An employer who fails to comply with section 389 of this subchapter
19 shall be fined \$500.00 per violation.

20 Sec. 4. EFFECTIVE DATE

21 This act shall take effect on July 1, 2026.