

SENATE, NO. 2543

[Senate, July 13, 2010 - New draft of Senate, No. 872 reported from the committee on Health Care Financing.]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND TEN

AN ACT TO PROHIBIT MANDATORY OVERTIME FOR NURSES.

Be it enacted by the Senate and House of Representatives in General Court assembled,

And by the authority of the same, as follows:

1 **SECTION 1.** Chapter 111 of the 2008 General Laws is hereby amended by adding the

2 following section:

3 Section 222. As used in this section, the following words shall, unless the context

4 requires otherwise, have the following meanings:

5 “Hospital”, a hospital licensed under section 51 of chapter 111, the teaching hospital of

6 the University of Massachusetts medical school, a licensed private or state-owned and state-

7 operated general acute care hospital, or an acute care unit within a state-operated facility;

8 provided, however, that “hospital” shall not include a licensed non-acute care hospital classified
9 as an inpatient rehabilitation facility, an inpatient psychiatric facility, an inpatient substance
10 abuse facility, or a long term care hospital by the federal Centers for Medicare and Medicaid
11 Services.

12 “Nurse”, a registered nurse licensed under section 74 of chapter 112 or a licensed
13 practical nurse licensed under section 74A of said chapter 112.

14 “Overtime”, the hours worked by a nurse to deliver patient care, beyond the
15 predetermined and regularly scheduled hours.

16 (a) A hospital shall not require or permit a nurse to work more than 12 hours in any given
17 shift or to exceed 16 hours in a 24 hour period. A nurse may not be disciplined, dismissed or
18 discharged for refusing to work beyond the hours specified in this paragraph. A nurse who works
19 12 consecutive hours in a shift shall be given at least 8 hours off from any work between shifts.
20 For the purposes of this paragraph, it shall not be the responsibility of the employer to ensure that
21 a nurse has not violated the limitation of hours worked as specified in this section except for
22 those hours worked in the employment of the employer. Nurses shall solely be responsible for
23 certifying with the board of registration in nursing compliance with the provisions of this
24 subsection during their applicable licensure renewal period.

25 (b) A hospital shall be limited to using mandatory overtime for emergency situations
26 where the safety of a patient requires its use and when there is no reasonable alternative.

27 (c) The department of public health shall, on or before July 1, 2011, promulgate
28 regulations to implement the requirements of this section. These regulations shall include a
29 system to levy an administrative fine on any hospital that violates this act or any regulation

30 issued under this act. The fine shall be less than \$100 and not greater than \$1,000 for each
31 violation.

32 (d) Nothing in this section shall be construed to limit, alter or modify the terms,
33 conditions or provisions of a collective bargaining agreement entered into by the hospital.