

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 898

S.P. 300

In Senate, March 7, 2017

An Act To Address Mandatory Overtime for Hospital Professionals

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator MASON of Androscoggin.

Cosponsored by Senators: BELLOWS of Kennebec, CUSHING of Penobscot, Representative:
VACHON of Scarborough.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 22 MRSA §1728** is enacted to read:

3 **§1728. Mandatory overtime for hospital professionals**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 A. "Division" means the division of licensing and regulatory services within the
7 department.

8 B. "Hospital" means a hospital licensed pursuant to chapter 405, including a mental
9 health hospital.

10 **2. Limits on mandatory overtime.** Except as provided in subsection 3, a hospital
11 may not require an employee with responsibilities for direct patient care to work more
12 than 12 hours in any 24-hour period unless the employee voluntarily agrees.

13 **3. Exceptions.** This section does not apply to:

14 A. Work performed in response to an emergency declared by a county, state or
15 federal official;

16 B. Work performed pursuant to a hospital's disaster plan;

17 C. Allopathic physicians licensed pursuant to Title 32, chapter 48; or

18 D. Osteopathic physicians licensed pursuant to Title 32, chapter 36.

19 **4. Complaint.** An aggrieved employee may file a complaint with the division within
20 45 days of a violation of subsection 2. The division shall notify the hospital that
21 committed the alleged violation within 3 business days after receiving the complaint.

22 **5. Reporting.** A hospital shall regularly report to the division all instances of
23 mandatory overtime and, for each instance, the circumstances necessitating the
24 mandatory overtime.

25 **6. Department of Labor.** This section applies in addition to the restrictions on
26 mandatory overtime enforced by the Department of Labor pursuant to Title 26, section
27 603.

28 **7. Rulemaking.** The division shall adopt rules to implement and administer this
29 section, including, but not limited to, rules regarding the manner and schedule for
30 reporting by hospitals. Rules adopted pursuant to this subsection are routine technical
31 rules as defined in Title 5, chapter 375, subchapter 2-A.

32 **SUMMARY**

33 This bill prohibits a hospital from requiring employees that provide direct patient care
34 to work more than 12 hours in any 24-hour period. This requirement does not apply to
35 physicians or in cases of a declared emergency. An aggrieved employee may file a

1 complaint with the division of licensing and regulatory services within the Department of
2 Health and Human Services, which must notify the hospital involved. Hospitals must
3 report all instances of mandatory overtime work to the division, which must adopt rules
4 regarding the manner and schedule for this reporting.