

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003

# A Bill

HOUSE BILL 1316

4  
5 By: Representatives Lendall, Blair  
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## For An Act To Be Entitled

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9 AN ACT TO PROHIBIT HEALTH CARE FACILITIES FROM  
10 REQUIRING EMPLOYEES TO PERFORM OVERTIME WORK; TO  
11 PRESCRIBE PENALTIES; AND FOR OTHER PURPOSES.  
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## Subtitle

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14 AN ACT TO PROHIBIT HEALTH CARE  
15 FACILITIES FROM REQUIRING EMPLOYEES TO  
16 PERFORM OVERTIME WORK; AND TO PRESCRIBE  
17 PENALTIES.  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 SECTION 1. Arkansas Code Title 17, Chapter 87, is amended to add an  
23 additional subchapter to read as follows:

24 17-87-701. The General Assembly finds that:

25 (1) Arkansas is experiencing a critical shortage of qualified,  
26 competent health care workers; and

27 (2) To safeguard the health, efficiency, and general well-being of  
28 health care workers and to promote patient safety and quality of care,  
29 required overtime work should be limited with reasonable safeguards to ensure  
30 that the public will continue to receive safe, high quality care.  
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32 17-87-702. As used in this subchapter:

33 (1) "Employee" means a person licensed by the State Board of Nursing,  
34 employed by a health care facility, is involved in direct patient care or  
35 clinical services, and who receives an hourly wage;

36 (2) "Employer" means an individual, partnership, association,



1 corporation, state institution, political subdivision of the state, or person  
2 or group of persons, acting directly or indirectly in the interest of a  
3 health care facility;

4 (3) "Health care facility" means the same as provided in § 20-13-901;

5 (4) "On-call time" means time spent by an employee who is not working  
6 on the premises of the place of employment but who is compensated for  
7 availability or who, as a condition of employment, has agreed to return to  
8 the premises of the place of employment on short notice if the need arises;

9 (5) "Overtime" means the hours worked in excess of an agreed upon,  
10 predetermined, regularly scheduled shift within a twenty-four hour period not  
11 to exceed twelve (12) hours in a twenty-four hour period or eighty (80) hours  
12 in a consecutive fourteen-day period;

13 (6) "Reasonable efforts" means that the employer, to the extent  
14 reasonably possible, does all of the following but is unable to obtain  
15 staffing coverage:

16 (A) Seeks individuals from the pool of all available qualified  
17 staff who are working to volunteer to work extra time;

18 (B) Contacts qualified employees who have made themselves  
19 available to work extra time;

20 (C) Seeks the use of per diem staff; and

21 (D) Seeks personnel from a contracted temporary agency if that  
22 staffing is permitted by law or an applicable collective bargaining  
23 agreement, and if the employer regularly uses a contracted temporary agency;  
24 and

25 (7) "Unforeseeable emergency circumstance" means:

26 (A) Any unforeseen declared national, state, or municipal  
27 emergency;

28 (B) Any health care facility disaster plan activation; or

29 (C) Any unforeseen disaster or other catastrophic event which  
30 substantially affects or increases the need for health care services.

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32 17-87-703. (a)(1) No employee of a health care facility may be  
33 required to work overtime.

34 (2) Attempts to compel or force employees to work overtime  
35 are contrary to public policy and any such requirement contained in a  
36 contract, agreement, or understanding is void.

1       (b) The acceptance by any employee of overtime is strictly voluntary,  
2 and the refusal of an employee to accept overtime work is not grounds for  
3 discrimination, dismissal, discharge, or any other penalty, threat of reports  
4 for discipline, or employment decision adverse to the employee.

5       (c) This section does not apply to overtime work that occurs:

6           (1) Because of any unforeseeable emergency circumstance;

7           (2) Because of prescheduled on-call time;

8           (3)(A) When the employer documents that the employer has used  
9 reasonable efforts to obtain staffing.

10           (B) An employer has not used reasonable efforts if  
11 overtime work is used to fill vacancies resulting from chronic staff  
12 shortages; or

13           (4) When an employee is required to work overtime to complete a  
14 patient care procedure already in progress where the absence of the employee  
15 could have an adverse effect on the patient.

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17       17-87-704. (a)(1) The Department of Labor shall investigate  
18 complaints of violations of § 17-87-703.

19           (2) The director shall have the same powers, duties, and  
20 authority to administer and enforce the provisions of this subchapter as are  
21 contained in §§ 11-2-108, 11-2-115, 11-2-116, and 11-2-118.

22       (b) A violation of § 17-87-703 is an uncertified misdemeanor  
23 punishable as follows:

24           (1) For a first, second, or third violation, the fine shall be  
25 one thousand dollars (\$1,000).

26           (2) For a fourth violation, the fine shall be two thousand five  
27 hundred dollars (\$2,500).

28           (3) For a fifth, or any subsequent violation, the fine shall be  
29 five thousand dollars (\$5,000).

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