STATE OF NEW YORK

8063

IN SENATE

January 24, 2022

Introduced by Sen. RAMOS -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law, in relation to restrictions on consecutive hours of work for nurses

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions 3 and 4 of section 167 of the labor law, as added by chapter 493 of the laws of 2008, are amended to read as follows:

3. The limitations provided for in this section shall not apply in the case of:

a. a health care disaster, such as a natural or other type of disaster that increases the need for health care personnel, unexpectedly affecting the county in which the nurse is employed or in a contiguous county**. The limitations on mandatory overtime shall be reinstated at the end of the health care disaster and shall not exceed three consecutive days**; or

b. a federal, state or county declaration of emergency in effect in the county in which the nurse is employed or in a contiguous county**. The limitations on mandatory overtime shall be reinstated at the end of the declared emergency or after thirty consecutive days, whichever is shorter**; or

c. where a health care employer determines there is an emergency, necessary to provide safe patient care, in which case the health care provider shall, before requiring an on-duty employee to remain, make a good faith effort to have overtime covered on a voluntary basis, including, but not limited to, calling per diems, agency nurses, assigning floats, or requesting an additional day of work from off-duty employees, to the extent such staffing options exist. For the purposes of this paragraph, "emergency", including an unanticipated staffing emergency, is defined as an unforeseen event that could not be prudently planned for by an employer [~~and~~]**,** does not regularly occur**, and does not include routine nurse staffing needs that arose due to typical staffing patterns, typical levels of absenteeism, and time off typically approved**

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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by the employer for vacations, holidays, sick leave, and personal leave; or

d. an ongoing medical or surgical procedure in which the nurse is actively engaged and whose continued presence through the completion of the procedure is needed to ensure the health and safety of the patient.

4. The department shall assess an employer a civil penalty of not less than one thousand dollars nor more than ten thousand dollars, per violation where an employer requires a nurse to work more than such nurse's regularly scheduled work hours; provided, further, that the employee shall receive an additional fifteen percent of the overtime payment from the employer for each violation.

5. The provisions of this section are intended as a remedial measure to protect the public health and the quality of patient care, and shall not be construed to diminish or waive any rights of any nurse pursuant to any other law, regulation, or collective bargaining agreement.

§ 2. This act shall take effect immediately.