

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 14-159—sHB 5453

Labor and Public Employees Committee

AN ACT CONCERNING EMPLOYERS AND HOME CARE WORKERS

SUMMARY: This act allows a “sleep-time” exclusion from overtime pay requirements for certain employees employed by third-party providers (e.g., home care agencies) to provide “companionship services” as defined by federal regulations. In general, “companionship services” means providing fellowship, protection, and limited care for an elderly person or person with an illness, injury, or disability.

Specifically, the act allows such an employee and third-party provider to agree to exclude a regularly scheduled sleep period from the work hours used to determine the employee’s overtime pay if (1) the employee is required to be present at a worksite for at least 24 consecutive hours, (2) adequate on-site sleeping facilities are provided to the employee, and (3) the employee receives at least five hours of sleep time. Thus, under such an agreement, the employee’s sleep time would not be included when determining whether the employee qualified for overtime pay by working more than 40 hours in a week.

The act prohibits excluding more than eight hours per sleep period, even if the scheduled sleep period is longer than eight hours. If the sleep period is interrupted by a work assignment, the interruption must be counted as hours worked. If the employee receives less than five hours of sleep time during the scheduled sleep period, the entire sleep period must be considered hours worked.

EFFECTIVE DATE: January 1, 2015

NEW FEDERAL REGULATIONS

The act specifies that it becomes effective on the effective date of the U.S. Department of Labor’s Final Rule on the Application of the federal Fair Labor Standards Act to Domestic Service, published in the October 1, 2013 Federal Register (January 1, 2015). Current federal regulations do not require overtime pay for any domestic service workers providing companionship services, but the new regulations implemented under the Final Rule will eliminate this “companionship exemption” for third-party providers. Because the state’s overtime law mirrors federal law and regulations regarding domestic workers, the new regulations will similarly expand the range of domestic workers entitled to overtime pay under state law. Consequently, domestic service workers employed by third party providers will be entitled to overtime pay for any hours worked beyond 40 in a week and could include many who work (and sleep) on at least a 24-hour shift at a worksite. While federal regulations allow sleep-time exclusions in such instances, prior state law did not.

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