

# SENATE BILL 1063

J3, P4

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CF 0lr3764

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By: **Senator Eckardt**

Introduced and read first time: February 27, 2020

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **State Health Care Facilities – Employees – Alternative Workweeks**

3 FOR the purpose of authorizing the Secretary of Health to authorize an employee of a State  
4 facility to work according to an alternative workweek under certain circumstances;  
5 requiring that a certain employee be considered a full-time employee of the State  
6 and be entitled to certain compensation; providing that certain provisions of law  
7 governing the payment for overtime work apply to employees of a State facility who  
8 are authorized to work according to a certain alternative workweek; defining certain  
9 terms; and generally relating to alternative workweeks for employees of State health  
10 care facilities.

11 BY adding to  
12 Article – Health – General  
13 Section 2–104(p)  
14 Annotated Code of Maryland  
15 (2019 Replacement Volume)

16 BY repealing and reenacting, with amendments,  
17 Article – State Personnel and Pensions  
18 Section 8–305  
19 Annotated Code of Maryland  
20 (2015 Replacement Volume and 2019 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
22 That the Laws of Maryland read as follows:

23 **Article – Health – General**

24 2–104.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           **(P) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE**  
 2 **MEANINGS INDICATED.**

3                           **(II) “ALTERNATIVE WORKWEEK” MEANS A WORK SCHEDULE**  
 4 **FOR AN EMPLOYEE OF A STATE FACILITY UNDER WHICH THE EMPLOYEE:**

5                           **1. WORKS HOURS OR SHIFTS THAT ARE NOT TYPICAL**  
 6 **FOR STATE EMPLOYEES; AND**

7                           **2. MAY WORK LESS THAN 40 HOURS IN A WEEK.**

8                           **(III) “STATE FACILITY” MEANS A HEALTH CARE FACILITY THAT**  
 9 **IS:**

10                           **1. OWNED OR OPERATED BY THE DEPARTMENT; AND**

11                           **2. OPEN 24 HOURS A DAY AND 7 DAYS A WEEK.**

12                           **(2) THE SECRETARY MAY AUTHORIZE AN EMPLOYEE OF A STATE**  
 13 **FACILITY TO WORK ACCORDING TO AN ALTERNATIVE WORKWEEK IF THE**  
 14 **ALTERNATIVE WORKWEEK IS CONSISTENT WITH ANY APPLICABLE COLLECTIVE**  
 15 **BARGAINING AGREEMENT.**

16                           **(3) AN EMPLOYEE OF A STATE FACILITY WHO IS AUTHORIZED TO**  
 17 **WORK ACCORDING TO AN ALTERNATIVE WORKWEEK UNDER PARAGRAPH (2) OF THIS**  
 18 **SUBSECTION SHALL BE:**

19                           **(I) CONSIDERED A FULL-TIME EMPLOYEE OF THE STATE,**  
 20 **NOTWITHSTANDING ANY OTHER PROVISION OF LAW; AND**

21                           **(II) ENTITLED TO COMPENSATION FOR OVERTIME WORK IN**  
 22 **ACCORDANCE WITH § 8-305 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.**

23                           **Article – State Personnel and Pensions**

24                           **8-305.**

25                           **(a) Except as otherwise provided in this section:**

26                           **(1) payment for time worked in excess of an employee’s normal workweek**  
 27 **but not in excess of 40 hours in that workweek shall be made at the employee’s regular**  
 28 **hourly rate of pay; and**

29                           **(2) payment for time worked in excess of 40 hours in a workweek shall be**

1 made at one and one-half times the employee's regular hourly rate of pay.

2 (b) (1) This subsection applies to those employees of a hospital or domiciliary  
3 care facility for the ill, aged, or disabled whose overtime compensation is computed on the  
4 basis of a 2-week work period under § 8-304(b) of this subtitle.

5 (2) For an employee subject to this subsection, payment for overtime work  
6 shall be made at the greater of:

7 (i) one and one-half times the employee's regular hourly rate of pay  
8 for time worked in excess of 80 hours in the 2-week work period; or

9 (ii) one and one-half times the employee's regular hourly rate of pay  
10 for time worked during that 2-week work period that is in excess of 8 hours in any workday.

11 (c) (1) This subsection applies to:

12 (I) law enforcement and civilian employees of the Department of  
13 State Police who participate in the modified workday program established in accordance  
14 with § 2-411 of the Public Safety Article; AND

15 (II) **EMPLOYEES OF A STATE FACILITY WHO ARE AUTHORIZED**  
16 **TO WORK ACCORDING TO AN ALTERNATIVE WORKWEEK UNDER § 2-104(P) OF THE**  
17 **HEALTH - GENERAL ARTICLE.**

18 (2) **IN THIS SUBSECTION, "TIME WORKED" FOR EMPLOYEES OF A**  
19 **STATE FACILITY WHO ARE AUTHORIZED TO WORK ACCORDING TO AN ALTERNATIVE**  
20 **WORKWEEK UNDER § 2-104(P) OF THE HEALTH - GENERAL ARTICLE:**

21 (I) **INCLUDES ONLY THE HOURS ACTUALLY WORKED; AND**

22 (II) **DOES NOT INCLUDE PAID LEAVE HOURS TAKEN BY THE**  
23 **EMPLOYEE DURING THE WORKWEEK.**

24 [(2)] (3) For an employee subject to this subsection, payment for overtime  
25 work shall be made at the greater of:

26 (i) one and one-half times the employee's regular hourly rate of pay  
27 for time worked in excess of 40 hours in the established work period; or

28 (ii) one and one-half times the employee's regular hourly rate of pay  
29 for time worked during that work period that is in excess of the established workday.

30 (d) A unit may adopt alternate work periods as allowed by the federal Fair Labor  
31 Standards Act for the purpose of determining payment for overtime work for its law  
32 enforcement employees or fire fighters.

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2   October 1, 2020.