

Chapter 328

(Senate Bill 542)

AN ACT concerning

State Health Care Facilities – Employees – Alternative Workweeks

FOR the purpose of authorizing the Secretary of Health, beginning on a certain date, to authorize an employee of a State facility to work according to an alternative workweek under certain circumstances; requiring that a certain employee be considered a full-time employee of the State ~~and be entitled to certain compensation~~; providing that certain provisions of law governing the payment for overtime work do not apply to employees of a State facility who are authorized to work according to a certain alternative workweek; defining certain terms; making this Act subject to a certain contingency; making this Act an emergency measure under certain circumstances; and generally relating to alternative workweeks for employees of State health care facilities.

BY adding to

Article – Health – General
Section 2–104(p)
Annotated Code of Maryland
(2019 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions
Section 8–305
Annotated Code of Maryland
(2015 Replacement Volume and 2020 Supplement)

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

Article – Health – General

2–104.

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

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

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

~~2.~~ ~~MAY~~ MAY WORK LESS THAN 40 HOURS IN A WEEK.

(III) "STATE FACILITY" MEANS A HEALTH CARE FACILITY THAT IS:

- 1. OWNED OR OPERATED BY THE DEPARTMENT; AND
- 2. OPEN 24 HOURS A DAY AND 7 DAYS A WEEK.

(2) BEGINNING MAY 1, 2021, THE SECRETARY MAY AUTHORIZE AN EMPLOYEE OF A STATE FACILITY TO WORK ACCORDING TO AN ALTERNATIVE WORKWEEK IF THE ALTERNATIVE WORKWEEK IS CONSISTENT WITH ~~ANY~~:

(I) ANY APPLICABLE COLLECTIVE BARGAINING MEMORANDUM OF UNDERSTANDING; OR

(II) IF THE EMPLOYEE IS NOT COVERED BY AN APPLICABLE COLLECTIVE BARGAINING MEMORANDUM OF UNDERSTANDING, ANY OTHER WRITTEN AGREEMENT.

(3) AN EMPLOYEE OF A STATE FACILITY WHO ~~IS AUTHORIZED TO WORK ACCORDING TO~~ WORKS AN ALTERNATIVE WORKWEEK AS AUTHORIZED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE:

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

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

Article – State Personnel and Pensions

~~8-305.~~

(a) Except as otherwise provided in this section:

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

(2) payment for time worked in excess of 40 hours in a workweek shall be made at one and one-half times the employee’s regular hourly rate of pay.

(b) (1) This subsection:

(I) EXCEPT AS PROVIDED IN ITEM (II) OF THIS PARAGRAPH, applies to those employees of a hospital or domiciliary care facility for the ill, aged, or disabled whose overtime compensation is computed on the basis of a 2-week work period under § 8-304(b) of this subtitle; **AND**

(II) DOES NOT APPLY TO AN EMPLOYEE WHO WORKS AN ALTERNATIVE WORKWEEK, AS DEFINED IN § 2-104(P) OF THE HEALTH – GENERAL ARTICLE.

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

- (i) one and one-half times the employee’s regular hourly rate of pay for time worked in excess of 80 hours in the 2-week work period; or
- (ii) one and one-half times the employee’s regular hourly rate of pay for time worked during that 2-week work period that is in excess of 8 hours in any workday.

(c) (1) This subsection applies to:

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

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

~~(2) IN THIS SUBSECTION, “TIME WORKED” FOR EMPLOYEES OF A STATE FACILITY WHO ARE AUTHORIZED TO WORK ACCORDING TO AN ALTERNATIVE WORKWEEK UNDER § 2-104(P) OF THE HEALTH – GENERAL ARTICLE:~~

~~(I) INCLUDES ONLY THE HOURS ACTUALLY WORKED; AND~~

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

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

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

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect contingent on the termination of Chapters 13 and 14 of the Acts of the General Assembly of 2020, and if Chapters 13 and 14 do not terminate before July 1, 2023, this Act, with no further action required by the General Assembly, shall be null and void.

SECTION 3. AND BE IT FURTHER ENACTED, That, subject to Section 2 of this Act, this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 18, 2021.