



General Assembly

**Substitute Bill No. 6187**

January Session, 2009

\*          HB06187LAB          030409          \*

**AN ACT MANDATING EMPLOYERS PROVIDE PAID SICK LEAVE TO EMPLOYEES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective January 1, 2010*) As used in this section  
2       and sections 2 to 5, inclusive, of this act:

3       (1) "Child" means a biological, adopted or foster child, stepchild or  
4       legal ward of an employee;

5       (2) "Day or temporary worker" means an individual who performs  
6       work for another on (A) a per diem basis, or (B) an occasional or  
7       irregular basis for only the time required to complete such work,  
8       whether such individual is paid by the person for whom such work is  
9       performed or by an employment agency or temporary help service, as  
10      defined in section 31-129 of the general statutes;

11      (3) "Employee" means any person, other than a day or temporary  
12      worker, engaged in service to an employer in the business of the  
13      employer who is (A) paid on an hourly basis, or (B) not exempt from  
14      the minimum wage and overtime compensation requirements of the  
15      Fair Labor Standards Act of 1938 and the regulations promulgated  
16      thereunder, as from time to time amended;

17      (4) "Employer" means any person, firm, business, educational

18 institution, nonprofit agency, corporation, limited liability company or  
19 other entity that employs fifty or more persons in the state;

20 (5) "Family violence" has the same meaning as provided in section  
21 46b-38a of the general statutes;

22 (6) "Retaliatory personnel action" means any termination,  
23 suspension, constructive discharge, demotion, unfavorable  
24 reassignment, refusal to promote, disciplinary action or other adverse  
25 employment action taken by an employer against an employee; and

26 (7) "Sexual assault" means any act that constitutes a violation of  
27 section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a, 53a-72b or 53c-73c of  
28 the general statutes.

29 Sec. 2. (NEW) (*Effective January 1, 2010*) (a) Each employer shall  
30 provide paid sick leave annually to each of such employer's employees  
31 in the state. Such paid sick leave shall accrue (1) from the  
32 commencement of an employee's employment, (2) at a rate of one hour  
33 of paid sick leave for each forty hours worked by an employee, and (3)  
34 in one-hour increments up to a maximum of fifty-two hours per year.

35 (b) An employee shall be entitled to the use of accrued paid sick  
36 leave beginning on the one-hundred-twentieth day after the  
37 employee's first day of employment, unless the employer agrees to an  
38 earlier date. Each employee shall be entitled to carry over a maximum  
39 of fifty-two hours of unused accrued paid sick leave from the current  
40 year, whether calendar or fiscal, to the following year. Each employee  
41 shall be entitled to use a maximum of fifty-two hours of accrued paid  
42 sick leave per year.

43 (c) Any employer that offers employees paid leave that may be used  
44 for the same purpose as paid sick leave under this section and section 3  
45 of this act shall be deemed to be in compliance with this section.

46 (d) Each employer shall pay each employee for paid sick leave at a  
47 pay rate equal to the greater of either (1) the normal hourly wage for

48 that employee, or (2) the minimum fair wage rate under section 31-58  
49 of the general statutes in effect for the pay period during which the  
50 employee used paid sick leave.

51 (e) Nothing in sections 1 to 5, inclusive, of this act shall be construed  
52 to (1) prevent employers from providing more paid sick leave than is  
53 required under this section and section 3 of this act, (2) diminish any  
54 rights provided to any employee under a collective bargaining  
55 agreement, or (3) preempt or over-ride the terms of any collective  
56 bargaining agreement effective prior to January 1, 2010.

57 (f) Notwithstanding the provisions of sections 1 to 5, inclusive, of  
58 this act and upon the mutual consent of the employee and employer,  
59 an employee that chooses to work additional hours or shifts during the  
60 same or following pay period, in lieu of hours or shifts missed, shall  
61 not use paid sick leave, provided the employer does not require the  
62 employee to work such additional hours or shifts.

63 Sec. 3. (NEW) (*Effective January 1, 2010*) (a) An employer shall permit  
64 an employee to use paid sick leave:

65 (1) For (A) an employee's illness, injury or health condition, (B) the  
66 medical diagnosis, care or treatment of an employee's mental or  
67 physical illness, injury or health condition, or (C) preventative medical  
68 care for an employee;

69 (2) For care of a child with a mental or physical illness, injury or  
70 health condition that needs medical diagnosis, care, treatment of an  
71 illness or condition or needs preventative medical care; or

72 (3) Where an employee is a victim of family violence or sexual  
73 assault (A) for medical care or psychological or other counseling for  
74 physical or psychological injury or disability, (B) to obtain services  
75 from a victim services organization, (C) to relocate due to such family  
76 violence or sexual assault, or (D) to participate in any civil or criminal  
77 proceedings related to or resulting from such family violence or sexual  
78 assault.

79 (b) If an employee's need to use paid sick leave is foreseeable, an  
80 employer may require advance notice, not to exceed seven days prior  
81 to the date such leave is to begin, of the intention to use such leave. If  
82 an employee's need for such leave is not foreseeable, an employer may  
83 require an employee to give notice of such intention as soon as  
84 practicable. For paid sick leave of three or more consecutive days, an  
85 employer may require reasonable documentation that such leave is  
86 being taken for the purpose permitted under subsection (a) of this  
87 section. If such leave is permitted under subdivisions (1) and (2) of said  
88 subsection (a), documentation signed by a health care provider who is  
89 treating the employee or the employee's child indicating the need for  
90 the number of days of such leave shall be considered reasonable  
91 documentation. If such leave is permitted under subdivision (3) of said  
92 subsection (a), a court record or documentation signed by an employee  
93 or volunteer working for a victim services organization, an attorney, a  
94 police officer or other counselor involved with the employee shall be  
95 considered reasonable documentation.

96 (c) Nothing in sections 1 to 5, inclusive, of this act shall be deemed  
97 to require any employer to provide paid sick leave for an employee's  
98 leave for any purpose other than those described in this section.

99 (d) Unless an employee policy or collective bargaining agreement  
100 provides for the payment of accrued fringe benefits upon termination,  
101 no employee shall be entitled to payment of unused accrued sick time  
102 under this section upon termination of employment.

103 Sec. 4. (NEW) (*Effective January 1, 2010*) (a) No employer shall take  
104 retaliatory personnel action or discriminate against an employee  
105 because the employee (1) requests or uses paid sick leave in  
106 accordance with sections 2 and 3 of this act, or (2) files a complaint  
107 with the Labor Commissioner alleging the employer's violation of  
108 sections 2 to 5, inclusive, of this act. The Labor Commissioner shall  
109 administer this section within available appropriations.

110 (b) Any employer who is found by the Labor Commissioner, by a

111 preponderance of the evidence, to have violated the provisions of  
 112 sections 2 to 5, inclusive, of this act shall be liable to the Labor  
 113 Department for a civil penalty of six hundred dollars for each  
 114 violation. The Labor Commissioner may award the employee all  
 115 appropriate relief, including rehiring or reinstatement to the  
 116 employee's previous job, payment of back wages and reestablishment  
 117 of employee benefits to which the employee otherwise would have  
 118 been eligible if the employee had not been subject to such retaliatory  
 119 personnel action or discriminated against. Any party aggrieved by the  
 120 decision of the commissioner may appeal the decision to the Superior  
 121 Court in accordance with the provisions of chapter 54 of the general  
 122 statutes.

123       Sec. 5. (NEW) (*Effective January 1, 2010*) Each employer subject to the  
 124 provisions of section 2 of this act shall, at the time of hiring, provide  
 125 notice to each employee (1) of the employee's entitlement to sick leave,  
 126 the amount of sick leave provided and the terms under which sick  
 127 leave may be used, (2) that retaliation by the employer against the  
 128 employee for requesting or using sick leave is prohibited, and (3) that  
 129 the employee has a right to file a complaint with the Labor  
 130 Commissioner for any violation of sections 2 to 5, inclusive, of this act.  
 131 Employers may comply with the provisions of this section by  
 132 displaying a poster in a conspicuous place, accessible to employees, at  
 133 the employer's place of business that contains the information required  
 134 by this section in both English and Spanish. The Labor Commissioner  
 135 may adopt regulations, in accordance with chapter 54 of the general  
 136 statutes, to establish additional requirements concerning the means by  
 137 which employers shall provide such notice. The Labor Commissioner  
 138 shall administer this section within available appropriations.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2010</i>	New section
Sec. 2	<i>January 1, 2010</i>	New section
Sec. 3	<i>January 1, 2010</i>	New section

Sec. 4	<i>January 1, 2010</i>	New section
Sec. 5	<i>January 1, 2010</i>	New section

**LAB**      *Joint Favorable Subst.*