



General Assembly

Amendment

January Session, 2009

LCO No. 8156

HB0618708156HDO

Offered by:

REP. CONWAY, 61st Dist.

REP. LESSER, 100th Dist.

To: Subst. House Bill No. 6187

File No. 981

Cal. No. 109

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

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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

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

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

13 (3) "Employee" means any person eighteen years of age or older

14 engaged in service to an employer in the business of the employer who
15 has worked a minimum of five hundred twenty hours for an employer
16 within the past twelve months and is (A) paid on an hourly basis, or
17 (B) not exempt from the minimum wage and overtime compensation
18 requirements of the Fair Labor Standards Act of 1938 and the
19 regulations promulgated thereunder, as amended from time to time.
20 Employee does not include (i) day or temporary workers, and (ii)
21 employees of any constituent unit of the state system of higher
22 education, as defined in section 10a-1 of the general statutes, who are
23 part-time or adjunct faculty members, university assistants working
24 less than twenty hours per week, educational assistants or other part-
25 time professional employees;

26 (4) "Employer" means any person, firm, business, educational
27 institution, nonprofit agency, corporation, limited liability company or
28 other entity that employs fifty or more persons in the state;

29 (5) "Family violence" has the same meaning as provided in section
30 46b-38a of the general statutes;

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

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

38 Sec. 2. (NEW) (*Effective January 1, 2010*) (a) Each employer shall
39 provide paid sick leave annually to each of such employer's employees
40 in the state. Such paid sick leave shall accrue (1) from the
41 commencement of an employee's eligibility, (2) at a rate of one hour of
42 paid sick leave for each forty hours worked by an employee, and (3) in
43 one-hour increments up to a maximum of (A) thirty-two hours for
44 calendar year 2010, and (B) forty hours for calendar year 2011 and each
45 year thereafter. Each employee shall be entitled to carry over unused

46 accrued hours of paid sick leave from the current calendar year to the
47 following calendar year, but no employee shall be entitled to use more
48 than the maximum number of accrued hours, as described in
49 subdivision (3) of this subsection, in any year.

50 (b) An employee shall be entitled to the use of accrued paid sick
51 leave upon the completion of the employee's one-thousand-fortieth
52 hour of employment from January 1, 2010, if the employee was hired
53 prior to January 1, 2010, or if hired after January 1, 2010, upon the
54 completion of his one-thousand-fortieth hour of employment from the
55 date of hire, unless the employer agrees to an earlier date.

56 (c) An employer shall be deemed to be in compliance with this
57 section if the employer offers any other paid leave, or combination of
58 other paid leave that (1) may be used for the purposes of section 3 of
59 this act, and (2) is accrued in total at a rate equal to or greater than the
60 rate described in subsections (a) and (b) of this section. For the
61 purposes of this subsection, "other paid leave" may include, but is not
62 limited to, flextime, compensatory time, paid vacation, personal days
63 or paid time off.

64 (d) Each employer shall pay each employee for paid sick leave at a
65 pay rate equal to the greater of either (1) the normal hourly wage for
66 that employee, or (2) the minimum fair wage rate under section 31-58
67 of the general statutes in effect for the pay period during which the
68 employee used paid sick leave.

69 (e) Nothing in sections 1 to 5, inclusive, of this act shall be construed
70 to (1) prevent employers from providing more paid sick leave than is
71 required under this section and section 3 of this act, (2) diminish any
72 rights provided to any employee under a collective bargaining
73 agreement, or (3) preempt or override the terms of any collective
74 bargaining agreement effective prior to January 1, 2010.

75 (f) Nothing in sections 1 to 5, inclusive, of this act shall be construed
76 to prohibit an employer from establishing a policy whereby an
77 employee may donate unused accrued paid sick leave to another

78 employee.

79 (g) Notwithstanding the provisions of sections 1 to 5, inclusive, of
80 this act and upon the mutual consent of the employee and employer,
81 an employee that chooses to work additional hours or shifts during the
82 same or following pay period, in lieu of hours or shifts missed, shall
83 not use paid sick leave, provided the employer does not require the
84 employee to work such additional hours or shifts.

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

87 (1) For (A) an employee's illness, injury or health condition, (B) the
88 medical diagnosis, care or treatment of an employee's mental or
89 physical illness, injury or health condition, or (C) preventative medical
90 care for an employee;

91 (2) For (A) a child's illness, injury or health condition, (B) the
92 medical diagnosis, care or treatment of a child's mental or physical
93 illness, injury or health condition, or (C) preventative medical care for
94 a child;

95 (3) Where an employee is a victim of family violence or sexual
96 assault (A) for medical care or psychological or other counseling for
97 physical or psychological injury or disability, (B) to obtain services
98 from a victim services organization, (C) to relocate due to such family
99 violence or sexual assault, or (D) to participate in any civil or criminal
100 proceedings related to or resulting from such family violence or sexual
101 assault.

102 (b) If an employee's need to use paid sick leave is foreseeable, an
103 employer may require advance notice, not to exceed seven days prior
104 to the date such leave is to begin, of the intention to use such leave. If
105 an employee's need for such leave is not foreseeable, an employer may
106 require an employee to give notice of such intention as soon as
107 practicable. For paid sick leave of three or more consecutive days, an
108 employer may require reasonable documentation that such leave is

109 being taken for the purpose permitted under subsection (a) of this
110 section. If such leave is permitted under subdivisions (1) and (2) of said
111 subsection (a), documentation signed by a health care provider who is
112 treating the employee or the employee's child indicating the need for
113 the number of days of such leave shall be considered reasonable
114 documentation. If such leave is permitted under subdivision (3) of said
115 subsection (a), a court record or documentation signed by an employee
116 or volunteer working for a victim services organization, an attorney, a
117 police officer or other counselor involved with the employee shall be
118 considered reasonable documentation.

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

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

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

133 (b) Any employer who is found by the Labor Commissioner, by a
134 preponderance of the evidence, to have violated the provisions of
135 sections 2 to 5, inclusive, of this act shall be liable to the Labor
136 Department for a civil penalty of six hundred dollars for each
137 violation. The Labor Commissioner may award the employee all
138 appropriate relief, including rehiring or reinstatement to the
139 employee's previous job, payment of back wages and reestablishment
140 of employee benefits to which the employee otherwise would have

141 been eligible if the employee had not been subject to such retaliatory
 142 personnel action or discriminated against. Any party aggrieved by the
 143 decision of the commissioner may appeal the decision to the Superior
 144 Court in accordance with the provisions of chapter 54 of the general
 145 statutes.

146 Sec. 5. (NEW) (*Effective January 1, 2010*) Each employer subject to the
 147 provisions of section 2 of this act shall, at the time of hiring, provide
 148 notice to each employee (1) of the employee's entitlement to sick leave,
 149 the amount of sick leave provided and the terms under which sick
 150 leave may be used, (2) that retaliation by the employer against the
 151 employee for requesting or using sick leave is prohibited, and (3) that
 152 the employee has a right to file a complaint with the Labor
 153 Commissioner for any violation of sections 2 to 5, inclusive, of this act.
 154 Employers may comply with the provisions of this section by
 155 displaying a poster in a conspicuous place, accessible to employees, at
 156 the employer's place of business that contains the information required
 157 by this section in both English and Spanish. The Labor Commissioner
 158 may adopt regulations, in accordance with chapter 54 of the general
 159 statutes, to establish additional requirements concerning the means by
 160 which employers shall provide such notice. The Labor Commissioner
 161 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