



General Assembly

**Amendment**

January Session, 2009

LCO No. 8542

\*HB0618708542HDO\*

Offered by:

REP. RYAN, 139<sup>th</sup> Dist.  
REP. CONWAY, 61<sup>st</sup> Dist.  
REP. LESSER, 100<sup>th</sup> 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, it shall not  
29 mean any employer falling under the United States Department of  
30 Labor's North American Industry Classification System sector 31, 32 or  
31 33, provided such employers provide paid sick leave at a rate equal to  
32 or greater than the rate described in subsections (a) and (b) of section 2  
33 of this act;

34 (5) "Family violence" has the same meaning as provided in section  
35 46b-38a of the general statutes;

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

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

43 Sec. 2. (NEW) (*Effective January 1, 2010*) (a) Each employer shall  
44 provide paid sick leave annually to each of such employer's employees

45 in the state. Such paid sick leave shall accrue (1) from the  
46 commencement of an employee's eligibility, (2) at a rate of one hour of  
47 paid sick leave for each forty hours worked by an employee, and (3) in  
48 one-hour increments up to a maximum of (A) thirty-two hours for  
49 calendar year 2010, and (B) forty hours for calendar year 2011 and each  
50 year thereafter. Each employee shall be entitled to carry over up to  
51 forty unused accrued hours of paid sick leave from the current  
52 calendar year to the following calendar year, but no employee shall be  
53 entitled to use more than the maximum number of accrued hours, as  
54 described in subdivision (3) of this subsection, in any year.

55 (b) An employee shall be entitled to the use of accrued paid sick  
56 leave upon the completion of the employee's one-thousand-fortieth  
57 hour of employment from January 1, 2010, if the employee was hired  
58 prior to January 1, 2010, or if hired after January 1, 2010, upon the  
59 completion of the employee's one-thousand-fortieth hour of  
60 employment from the date of hire, unless the employer agrees to an  
61 earlier date.

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

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

75 (e) Nothing in sections 1 to 5, inclusive, of this act shall be construed  
76 to (1) prevent employers from providing more paid sick leave than is

77 required under this section, (2) diminish any rights provided to any  
78 employee under a collective bargaining agreement, or (3) preempt or  
79 override the terms of any collective bargaining agreement effective  
80 prior to January 1, 2010.

81 (f) Nothing in sections 1 to 5, inclusive, of this act shall be construed  
82 to prohibit (1) an employer from establishing a policy whereby an  
83 employee may donate unused accrued paid sick leave to another  
84 employee, and (2) an employer who provides more paid sick leave  
85 than is required under section 2 of this act for the purposes described  
86 in subdivision (1) of subsection (a) of section 3 of this act from limiting  
87 the amount of such leave an employee may use for other purposes.

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

94 Sec. 3. (NEW) (*Effective January 1, 2010*) (a) An employer shall permit  
95 an employee to use the paid sick leave accrued pursuant to section 2 of  
96 this act:

97 (1) For (A) an employee's illness, injury or health condition, (B) the  
98 medical diagnosis, care or treatment of an employee's mental or  
99 physical illness, injury or health condition, or (C) preventative medical  
100 care for an employee;

101 (2) For (A) a child's illness, injury or health condition, (B) the  
102 medical diagnosis, care or treatment of a child's mental or physical  
103 illness, injury or health condition, or (C) preventative medical care for  
104 a child;

105 (3) Where an employee is a victim of family violence or sexual  
106 assault (A) for medical care or psychological or other counseling for  
107 physical or psychological injury or disability, (B) to obtain services

108 from a victim services organization, (C) to relocate due to such family  
109 violence or sexual assault, or (D) to participate in any civil or criminal  
110 proceedings related to or resulting from such family violence or sexual  
111 assault.

112 (b) If an employee's need to use paid sick leave is foreseeable, an  
113 employer may require advance notice, not to exceed seven days prior  
114 to the date such leave is to begin, of the intention to use such leave. If  
115 an employee's need for such leave is not foreseeable, an employer may  
116 require an employee to give notice of such intention as soon as  
117 practicable. For paid sick leave of three or more consecutive days, an  
118 employer may require reasonable documentation that such leave is  
119 being taken for the purpose permitted under subsection (a) of this  
120 section. If such leave is permitted under subdivision (1) or (2) of  
121 subsection (a) of this section, documentation signed by a health care  
122 provider who is treating the employee or the employee's child  
123 indicating the need for the number of days of such leave shall be  
124 considered reasonable documentation. If such leave is permitted under  
125 subdivision (3) of subsection (a) of this section, a court record or  
126 documentation signed by an employee or volunteer working for a  
127 victim services organization, an attorney, a police officer or other  
128 counselor involved with the employee shall be considered reasonable  
129 documentation.

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

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

137 Sec. 4. (NEW) (*Effective January 1, 2010*) (a) No employer shall take  
138 retaliatory personnel action or discriminate against an employee  
139 because the employee (1) requests or uses paid sick leave in

140 accordance with sections 2 and 3 of this act, or (2) files a complaint  
141 with the Labor Commissioner alleging the employer's violation of  
142 sections 2 to 5, inclusive, of this act. The Labor Commissioner shall  
143 administer this section within available appropriations.

144 (b) Any employer who is found by the Labor Commissioner, by a  
145 preponderance of the evidence, to have violated the provisions of  
146 sections 2 to 5, inclusive, of this act shall be liable to the Labor  
147 Department for a civil penalty of six hundred dollars for each  
148 violation. The Labor Commissioner may award the employee all  
149 appropriate relief, including rehiring or reinstatement to the  
150 employee's previous job, payment of back wages and reestablishment  
151 of employee benefits to which the employee otherwise would have  
152 been eligible if the employee had not been subject to such retaliatory  
153 personnel action or discriminated against. Any party aggrieved by the  
154 decision of the commissioner may appeal the decision to the Superior  
155 Court in accordance with the provisions of chapter 54 of the general  
156 statutes.

157 Sec. 5. (NEW) (*Effective January 1, 2010*) Each employer subject to the  
158 provisions of section 2 of this act shall, at the time of hiring, provide  
159 notice to each employee (1) of the employee's entitlement to sick leave,  
160 the amount of sick leave provided and the terms under which sick  
161 leave may be used, (2) that retaliation by the employer against the  
162 employee for requesting or using sick leave is prohibited, and (3) that  
163 the employee has a right to file a complaint with the Labor  
164 Commissioner for any violation of sections 2 to 5, inclusive, of this act.  
165 Employers may comply with the provisions of this section by  
166 displaying a poster in a conspicuous place, accessible to employees, at  
167 the employer's place of business that contains the information required  
168 by this section in both English and Spanish. The Labor Commissioner  
169 may adopt regulations, in accordance with chapter 54 of the general  
170 statutes, to establish additional requirements concerning the means by  
171 which employers shall provide such notice. The Labor Commissioner  
172 shall administer this section within available appropriations."

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|-------------------------------------------------------------------------------|------------------------|-------------|
| 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 |