



General Assembly

Substitute Bill No. 172

February Session, 2010

* SB00172LAB__031610__ *

AN ACT MANDATING HOME HEALTH AGENCIES 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, 2011*) 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) "Employee" means any person, engaged in service to an
6 employer in the business of the employer, who has worked a
7 minimum of five hundred twenty hours for an employer within the
8 past twelve months and is (A) paid on an hourly basis, or (B) not
9 exempt from the minimum wage and overtime compensation
10 requirements of the Fair Labor Standards Act of 1938 and the
11 regulations promulgated thereunder, as amended from time to time;

12 (3) "Employer" means any home health agency, as defined in section
13 19a-490 of the general statutes, that (A) receives payment for rendering
14 care to persons receiving medical assistance from the state or
15 assistance from the Connecticut home-care program for the elderly,
16 pursuant to section 17b-342 of the general statutes, and (B) employs
17 fifty or more persons in the state;

18 (4) "Family violence" has the same meaning as provided in section
19 46b-38a of the general statutes;

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

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

27 Sec. 2. (NEW) (*Effective January 1, 2011*) (a) Each employer shall
28 provide paid sick leave annually to each of such employer's employees
29 in the state. Such paid sick leave shall accrue (1) beginning January 1,
30 2011, or for an employee hired after said date, beginning on the
31 employee's date of employment, (2) at a rate of one hour of paid sick
32 leave for each forty hours worked by an employee, and (3) in one-hour
33 increments up to a maximum of forty hours per calendar year. Each
34 employee shall be entitled to carry over up to forty unused accrued
35 hours of paid sick leave from the current calendar year to the following
36 calendar year, but no employee shall be entitled to use more than the
37 maximum number of accrued hours, as described in subdivision (3) of
38 this subsection, in any year.

39 (b) An employee shall be entitled to the use of accrued paid sick
40 leave upon the completion of the employee's five-hundred-twentieth
41 hour of employment from January 1, 2011, if the employee was hired
42 prior to January 1, 2011, or, if hired after January 1, 2011, upon the
43 completion of the employee's five-hundred-twentieth hour of
44 employment from the date of hire, unless the employer agrees to an
45 earlier date.

46 (c) An employer shall be deemed to be in compliance with this
47 section if the employer offers any other paid leave or combination of
48 other paid leave that (1) may be used for the purposes of section 3 of

49 this act, and (2) is accrued in total at a rate equal to or greater than the
50 rate described in subsections (a) and (b) of this section. For the
51 purposes of this subsection, "other paid leave" may include, but is not
52 limited to, flextime, compensatory time, paid vacation, personal days
53 or paid time off.

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

59 (e) Nothing in sections 1 to 5, inclusive, of this act shall be construed
60 to (1) prevent employers from providing more paid sick leave than is
61 required under this section, (2) diminish any rights provided to any
62 employee under a collective bargaining agreement, or (3) preempt or
63 override the terms of any collective bargaining agreement effective
64 prior to January 1, 2011, while such agreement remains in effect.

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

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

78 Sec. 3. (NEW) (*Effective January 1, 2011*) (a) An employer shall permit
79 an employee to use the paid sick leave accrued pursuant to section 2 of

80 this act:

81 (1) For (A) an employee's illness, injury or health condition, (B) the
82 medical diagnosis, care or treatment of an employee's mental or
83 physical illness, injury or health condition, or (C) preventative medical
84 care for an employee;

85 (2) For (A) a child's illness, injury or health condition, (B) the
86 medical diagnosis, care or treatment of a child's mental or physical
87 illness, injury or health condition, or (C) preventative medical care for
88 a child;

89 (3) Where an employee is a victim of family violence or sexual
90 assault (A) for medical care or psychological or other counseling for
91 physical or psychological injury or disability, (B) to obtain services
92 from a victim services organization, (C) to relocate due to such family
93 violence or sexual assault, or (D) to participate in any civil or criminal
94 proceedings related to, or resulting from, such family violence or
95 sexual assault.

96 (b) If an employee's need to use paid sick leave is foreseeable, an
97 employer may require advance notice, not to exceed seven days prior
98 to the date such leave is to begin, of the intention to use such leave. If
99 an employee's need for such leave is not foreseeable, an employer may
100 require an employee to give notice of such intention as soon as
101 practicable. For paid sick leave of three or more consecutive days, an
102 employer may require reasonable documentation that such leave is
103 being taken for the purpose permitted under subsection (a) of this
104 section. If such leave is permitted under subdivision (1) or (2) of
105 subsection (a) of this section, documentation signed by a health care
106 provider, who is treating the employee or the employee's child
107 indicating the need for the number of days of such leave, shall be
108 considered reasonable documentation. If such leave is permitted under
109 subdivision (3) of subsection (a) of this section, a court record or
110 documentation signed by an employee or volunteer working for a
111 victim services organization, an attorney, a police officer or other

112 counselor involved with the employee shall be considered reasonable
113 documentation.

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

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

121 Sec. 4. (NEW) (*Effective January 1, 2011*) (a) No employer shall take
122 retaliatory personnel action or discriminate against an employee
123 because the employee (1) requests or uses paid sick leave in
124 accordance with sections 2 and 3 of this act, or (2) files a complaint
125 with the Labor Commissioner alleging the employer's violation of
126 sections 2 to 5, inclusive, of this act. The Labor Commissioner shall
127 administer this section within available appropriations.

128 (b) Any employer who is found by the Labor Commissioner, by a
129 preponderance of the evidence, to have violated the provisions of
130 sections 2 to 5, inclusive, of this act shall be liable to the Labor
131 Department for a civil penalty of six hundred dollars for each
132 violation. The Labor Commissioner may award the employee all
133 appropriate relief, including rehiring or reinstatement to the
134 employee's previous job, payment of back wages and reestablishment
135 of employee benefits to which the employee otherwise would have
136 been eligible if the employee had not been subject to such retaliatory
137 personnel action or discriminated against. Any party aggrieved by the
138 decision of the commissioner may appeal the decision to the Superior
139 Court in accordance with the provisions of chapter 54 of the general
140 statutes.

141 Sec. 5. (NEW) (*Effective January 1, 2011*) Each employer subject to the
142 provisions of section 2 of this act shall, at the time of hiring, provide

