



General Assembly

February Session, 2010

Amendment

LCO No. 4119

SB0006304119SR0

Offered by:
SEN. KANE, 32nd Dist.

To: Subst. Senate Bill No. 63

File No. 80

Cal. No. 93

"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, 2011*) 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) "Employee" means any person engaged in service to an employer
8 in the business of his or her employer;

9 (3) "Employer" means any person, firm, business, educational
10 institution, nonprofit agency, corporation, limited liability company or
11 other entity that employs fifty or more employees in the state;

12 (4) "Family violence" has the same meaning as provided in section
13 46b-38a of the general statutes;

14 (5) "Retaliatory personnel action" means any termination,
15 suspension, constructive discharge, demotion, unfavorable
16 reassignment, refusal to promote, disciplinary action or other adverse
17 employment action taken by an employer against an employee;

18 (6) "Service worker" means any person, engaged in service to an
19 employer in the business of the employer and is primarily engaged in
20 one of the following occupation code numbers and titles, as defined by
21 the federal Bureau of Labor Statistics Standard Occupational
22 Classification system: (A) 25-4021 Librarians; (B) 31-1011 Home Health
23 Aides; (C) 31-1012 Nursing Aides, Orderlies, and Attendants; (D) 31-
24 1013 Psychiatric Aides; (E) 31-9091 Dental Assistants; (F) 31-9092
25 Medical Assistants; (G) 35-1011 Chefs and Head Cooks; (H) 35-1012
26 First Line Supervisors/Managers of Food Preparation and Serving
27 Workers; (I) 35-2011 Cooks, Fast Food; (J) 35-2012 Cooks, Institution
28 and Cafeteria; (K) 35-2014 Cooks, Restaurant; (L) 35-2015 Cooks, Short
29 Order; (M) 35-2021 Food Preparation Workers; (N) 35-3011 Bartenders;
30 (O) 35-3021 Combined Food Preparation and Serving Workers,
31 Including Fast Food; (P) 35-3022 Counter Attendants, Cafeteria, Food
32 Concession, and Coffee Shop; (Q) 35-3031 Waiters and Waitresses; (R)
33 35-9011 Dining Room and Cafeteria Attendants and Bartender
34 Helpers; (S) 35-9021 Dishwashers; (T) 35-9031 Hosts and Hostesses,
35 Restaurant, Lounge, and Coffee Shop; (U) 37-2011 Janitors and
36 Cleaners, Except Maids and Housekeeping Cleaners; (V) 37-2019
37 Building Cleaning Workers, All Other; (W) 39-9011 Child Care
38 Workers; (X) 39-9021 Personal and Home Care Aides; (Y) 41-0000 Sales
39 and Related Occupations; (Z) 41-1011 First-Line
40 Supervisors/Managers of Retail Sales Workers; (AA) 41-1012 First-
41 Line Supervisors/Managers of Non-Retail Sales Workers; (BB) 41-2011
42 Cashiers; (CC) 41-2021 Counter and Rental Clerks; (DD) 41-2031 Retail
43 Salespersons; or (EE) 53-3022 Bus Drivers, School, and is (i) paid on an
44 hourly basis, or (ii) not exempt from the minimum wage and overtime
45 compensation requirements of the Fair Labor Standards Act of 1938
46 and the regulations promulgated thereunder, as amended from time to
47 time. "Service worker" does not include employees of any constituent

48 unit of the state system of higher education, as defined in section 10a-1
49 of the general statutes, who is a part-time or adjunct faculty member,
50 university assistant working less than twenty hours per week,
51 educational assistant or other part-time professional employee; and

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

55 Sec. 2. (NEW) (*Effective January 1, 2011*) (a) Each employer shall
56 provide paid sick leave annually to each of such employer's service
57 workers in the state. Such paid sick leave shall accrue (1) beginning
58 January 1, 2011, or for a service worker hired after said date, beginning
59 on the service worker's date of employment, (2) at a rate of one hour of
60 paid sick leave for each forty hours worked by a service worker, and
61 (3) in one-hour increments up to a maximum of forty hours per
62 calendar year. Each service worker shall be entitled to carry over up to
63 forty unused accrued hours of paid sick leave from the current
64 calendar year to the following calendar year, but no service worker
65 shall be entitled to use more than the maximum number of accrued
66 hours, as described in subdivision (3) of this subsection, in any year.

67 (b) A service worker shall be entitled to begin to accrue paid sick
68 leave upon the completion of the service worker's five-hundred-
69 twentieth hour of employment in a twelve-month period with the
70 employer and may begin to use such accrued paid sick leave (1) upon
71 the service worker's one-thousand-fortieth hour of employment from
72 January 1, 2011, if the service worker was hired prior to January 1,
73 2011, or (2) upon the service worker's one-thousand-fortieth hour of
74 employment from the date of hire if the service worker was hired on or
75 after January 1, 2011, unless the employer agrees to an earlier date.

76 (c) An employer shall be deemed to be in compliance with this
77 section if the employer offers any other paid leave or combination of
78 other paid leave that (1) may be used for the purposes of section 3 of
79 this act, and (2) is accrued in total at a rate equal to or greater than the

80 rate described in subsections (a) and (b) of this section. For the
81 purposes of this subsection, "other paid leave" may include, but is not
82 limited to, flextime, compensatory time, paid vacation, personal days
83 or paid time off.

84 (d) Each employer shall pay each service worker for paid sick leave
85 at a pay rate equal to the greater of either (1) the normal hourly wage
86 for that service worker, or (2) the minimum fair wage rate under
87 section 31-58 of the general statutes in effect for the pay period during
88 which the service worker used paid sick leave.

89 (e) Nothing in sections 1 to 5, inclusive, of this act shall be construed
90 to (1) prevent employers from providing more paid sick leave than is
91 required under this section, (2) diminish any rights provided to any
92 employee or service worker under a collective bargaining agreement,
93 or (3) preempt or override the terms of any collective bargaining
94 agreement effective prior to January 1, 2011, while such agreement
95 remains in effect.

96 (f) Nothing in sections 1 to 5, inclusive, of this act shall be construed
97 to prohibit (1) an employer from establishing a policy whereby an
98 employee or service worker may donate unused accrued paid sick
99 leave to another employee or service worker, and (2) an employer who
100 provides more paid sick leave than is required under this section for
101 the purposes described in subdivision (1) of subsection (a) of section 3
102 of this act, from limiting the amount of such leave an employee or
103 service worker may use for other purposes.

104 (g) Notwithstanding the provisions of sections 1 to 5, inclusive, of
105 this act and upon the mutual consent of the service worker and
106 employer, a service worker who chooses to work additional hours or
107 shifts during the same or following pay period, in lieu of hours or
108 shifts missed, shall not use paid sick leave, provided the employer
109 does not require the service worker to work such additional hours or
110 shifts.

111 Sec. 3. (NEW) (*Effective January 1, 2011*) (a) An employer shall permit

112 a service worker to use the paid sick leave accrued pursuant to section
113 2 of this act:

114 (1) For (A) a service worker's illness, injury or health condition, (B)
115 the medical diagnosis, care or treatment of a service worker's mental or
116 physical illness, injury or health condition, or (C) preventative medical
117 care for a service worker;

118 (2) For (A) a child's illness, injury or health condition, (B) the
119 medical diagnosis, care or treatment of a child's mental or physical
120 illness, injury or health condition, or (C) preventative medical care for
121 a child; and

122 (3) Where a service worker is a victim of family violence or sexual
123 assault (A) for medical care or psychological or other counseling for
124 physical or psychological injury or disability, (B) to obtain services
125 from a victim services organization, (C) to relocate due to such family
126 violence or sexual assault, or (D) to participate in any civil or criminal
127 proceedings related to, or resulting from, such family violence or
128 sexual assault.

129 (b) If a service worker's need to use paid sick leave is foreseeable, an
130 employer may require advance notice, not to exceed seven days prior
131 to the date such leave is to begin, of the intention to use such leave. If a
132 service worker's need for such leave is not foreseeable, an employer
133 may require a service worker to give notice of such intention as soon as
134 practicable. For paid sick leave of three or more consecutive days, an
135 employer may require reasonable documentation that such leave is
136 being taken for the purpose permitted under subsection (a) of this
137 section. If such leave is permitted under subdivision (1) or (2) of
138 subsection (a) of this section, documentation signed by a health care
139 provider, who is treating the service worker or the service worker's
140 child indicating the need for the number of days of such leave, shall be
141 considered reasonable documentation. If such leave is permitted under
142 subdivision (3) of subsection (a) of this section, a court record or
143 documentation signed by an employee or volunteer working for a

144 victim services organization, an attorney, a police officer or other
145 counselor involved with the service worker shall be considered
146 reasonable documentation.

147 (c) Nothing in sections 1 to 5, inclusive, of this act shall be deemed
148 to require any employer to provide paid sick leave for a service
149 worker's leave for any purposes other than those described in this
150 section.

151 (d) Unless an employee policy or collective bargaining agreement
152 provides for the payment of accrued fringe benefits upon termination,
153 no service worker shall be entitled to payment of unused accrued sick
154 time under this section upon termination of employment.

155 Sec. 4. (NEW) (*Effective January 1, 2011*) (a) No employer shall take
156 retaliatory personnel action or discriminate against a service worker or
157 employee because (1) the service worker requests or uses paid sick
158 leave either in accordance with sections 2 and 3 of this act or against an
159 employee or service worker for requesting or using paid sick leave in
160 accordance with the employer's own paid sick leave policy, or (2) the
161 service worker files a complaint with the Labor Commissioner alleging
162 the employer's violation of sections 2, 3, and 5 of this act or an
163 employee or service worker files a complaint with the Labor
164 Commissioner alleging the employer's violation of this section. The
165 Labor Commissioner shall administer this section within available
166 appropriations.

167 (b) Any employer who is found by the Labor Commissioner, by a
168 preponderance of the evidence, to have violated the provisions of
169 sections 2 to 5, inclusive, of this act shall be liable to the Labor
170 Department for a civil penalty of six hundred dollars for each
171 violation. The Labor Commissioner may award the employee or
172 service worker all appropriate relief, including rehiring or
173 reinstatement to the employee's or service worker's previous job,
174 payment of back wages and reestablishment of benefits to which the
175 employee or service worker otherwise would have been eligible if the

176 employee or service worker had not been subject to such retaliatory
 177 personnel action or discriminated against. Any party aggrieved by the
 178 decision of the commissioner may appeal the decision to the Superior
 179 Court in accordance with the provisions of chapter 54 of the general
 180 statutes.

181 Sec. 5. (NEW) (*Effective January 1, 2011*) Each employer subject to the
 182 provisions of section 2 of this act shall, at the time of hiring, provide
 183 notice to each employee or service worker (1) of the entitlement to sick
 184 leave for employees or service workers, the amount of sick leave
 185 provided and the terms under which sick leave may be used, (2) that
 186 retaliation by the employer against the employee or service worker for
 187 requesting or using sick leave for which the employee or service
 188 worker is eligible is prohibited, and (3) that the employee or service
 189 worker has a right to file a complaint with the Labor Commissioner for
 190 any violation of sections 2 to 5, inclusive, of this act. Employers may
 191 comply with the provisions of this section by displaying a poster in a
 192 conspicuous place, accessible to employees, at the employer's place of
 193 business that contains the information required by this section in both
 194 English and Spanish. The Labor Commissioner may adopt regulations,
 195 in accordance with chapter 54 of the general statutes, to establish
 196 additional requirements concerning the means by which employers
 197 shall provide such notice. The Labor Commissioner shall administer
 198 this section within available appropriations."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2011</i>	New section
Sec. 2	<i>January 1, 2011</i>	New section
Sec. 3	<i>January 1, 2011</i>	New section
Sec. 4	<i>January 1, 2011</i>	New section
Sec. 5	<i>January 1, 2011</i>	New section