



General Assembly

January Session, 2011

Raised Bill No. 913

LCO No. 2862

02862_____LAB

Referred to Committee on Labor and Public Employees

Introduced by:
(LAB)

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, 2012*) 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,
4 legal ward of an employee, or a child of an employee standing in loco
5 parentis, who is (A) under eighteen years of age; or (B) eighteen years
6 of age or older and incapable of self-care because of a mental or
7 physical disability;

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

14 (3) "Employee" means any person, engaged in service to an

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

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

30 (5) "Family violence" has the same meaning as provided in section
31 46b-38a of the general statutes;

32 (6) "Parent" means a biological parent, foster parent, adoptive
33 parent, stepparent or legal guardian of an employee or an employee's
34 spouse, or an individual who stood in loco parentis to an employee
35 when the employee was a child;

36 (7) "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;

40 (8) "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; and

43 (9) "Spouse" means a husband or wife, as the case may be.

44 Sec. 2. (NEW) (*Effective January 1, 2012*) (a) Each employer shall

45 provide paid sick leave annually to each of such employer's employees
46 in the state. Such paid sick leave shall accrue (1) beginning January 1,
47 2012, or for an employee hired after said date, beginning on the
48 employee's date of employment, (2) at a rate of one hour of paid sick
49 leave for each forty hours worked by an employee, and (3) in one-hour
50 increments up to a maximum of forty hours per calendar year. Each
51 employee shall be entitled to carry over up to forty unused accrued
52 hours of paid sick leave from the current calendar year to the following
53 calendar year, but no employee shall be entitled to use more than the
54 maximum number of accrued hours, as described in subdivision (3) of
55 this subsection, in any year.

56 (b) An employee shall be entitled to the use of accrued paid sick
57 leave upon the completion of the employee's six-hundred-eightieth
58 hour of employment from January 1, 2012, if the employee was hired
59 prior to January 1, 2012, or if hired after January 1, 2012, upon the
60 completion of the employee's six-hundred-eightieth hour of
61 employment from the date of hire, unless the employer agrees to an
62 earlier date.

63 (c) An employer shall be deemed to be in compliance with this
64 section if the employer offers any other paid leave, or combination of
65 other paid leave that (1) may be used for the purposes of section 3 of
66 this act, and (2) is accrued in total at a rate equal to or greater than the
67 rate described in subsections (a) and (b) of this section. For the
68 purposes of this subsection, "other paid leave" may include, but is not
69 limited to, paid vacation, personal days 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. For any employee whose hourly wage
75 varies depending on the work performed by the employee, the
76 "normal hourly wage" shall mean the average hourly wage of the

77 employee in the pay period prior to the one in which the employee
78 used paid sick leave.

79 (e) Nothing in sections 1 to 5, inclusive, of this act shall be construed
80 to (1) prevent employers from providing more paid sick leave than is
81 required under this section, (2) diminish any rights provided to any
82 employee under a collective bargaining agreement, or (3) preempt or
83 override the terms of any collective bargaining agreement effective
84 prior to January 1, 2012.

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

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

98 Sec. 3. (NEW) (*Effective January 1, 2012*) (a) An employer shall permit
99 an employee to use the paid sick leave accrued pursuant to section 2 of
100 this act:

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

105 (2) For (A) a child's, parent's or spouse's illness, injury or health
106 condition, (B) the medical diagnosis, care or treatment of a child's,

107 parent's or spouse's mental or physical illness, injury or health
108 condition, or (C) preventative medical care for a child, parent or
109 spouse;

110 (3) Where an employee is a victim of family violence or sexual
111 assault (A) for medical care or psychological or other counseling for
112 physical or psychological injury or disability, (B) to obtain services
113 from a victim services organization, (C) to relocate due to such family
114 violence or sexual assault, or (D) to participate in any civil or criminal
115 proceedings related to or resulting from such family violence or sexual
116 assault.

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

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

138 (d) Unless an employee policy or collective bargaining agreement

139 provides for the payment of accrued fringe benefits upon termination,
140 no employee shall be entitled to payment of unused accrued sick time
141 under this section upon termination of employment.

142 Sec. 4. (NEW) (*Effective January 1, 2012*) (a) No employer shall take
143 retaliatory personnel action or discriminate against an employee
144 because the employee (1) requests or uses paid sick leave in
145 accordance with sections 2 and 3 of this act, or (2) files a complaint
146 with the Labor Commissioner alleging the employer's violation of
147 sections 2 to 5, inclusive, of this act. The Labor Commissioner shall
148 administer this section within available appropriations.

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

162 Sec. 5. (NEW) (*Effective January 1, 2012*) Each employer subject to the
163 provisions of section 2 of this act shall, at the time of hiring, provide
164 notice to each employee (1) of the employee's entitlement to sick leave,
165 the amount of sick leave provided and the terms under which sick
166 leave may be used, (2) that retaliation by the employer against the
167 employee for requesting or using sick leave is prohibited, and (3) that
168 the employee has a right to file a complaint with the Labor
169 Commissioner for any violation of sections 2 to 5, inclusive, of this act.
170 Employers may comply with the provisions of this section by

171 displaying a poster in a conspicuous place, accessible to employees, at
172 the employer's place of business that contains the information required
173 by this section in both English and Spanish. The Labor Commissioner
174 may adopt regulations, in accordance with chapter 54 of the general
175 statutes, to establish additional requirements concerning the means by
176 which employers shall provide such notice. The Labor Commissioner
177 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, 2012</i>	New section
Sec. 2	<i>January 1, 2012</i>	New section
Sec. 3	<i>January 1, 2012</i>	New section
Sec. 4	<i>January 1, 2012</i>	New section
Sec. 5	<i>January 1, 2012</i>	New section

Statement of Purpose:

To require employers with fifty or more employees to provide paid sick leave to certain employees for use for the employee's sickness, the employee's child's, parent's or spouse's sickness, or to deal with sexual assault or family violence issues.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]