



General Assembly

January Session, 2011

**Amendment**

LCO No. 7200

**\*SB0091307200SD0\***

Offered by:

SEN. PRAGUE, 19<sup>th</sup> Dist.

REP. ZALASKI, 81<sup>st</sup> Dist.

SEN. MEYER, 12<sup>th</sup> Dist.

To: Senate Bill No. 913

File No. 76

Cal. No. 97

**"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, 2012*) As used in this section  
4 and sections 2 to 6, inclusive, of this act:

5 (1) "Child" means a biological, adopted or foster child, stepchild,  
6 legal ward of a service worker, or a child of a service worker standing  
7 in loco parentis, who is (A) under eighteen years of age; or (B) eighteen  
8 years of age or older and incapable of self-care because of a mental or  
9 physical disability;

10 (2) "Day or temporary worker" means an individual who performs  
11 work for another on (A) a per diem basis, or (B) an occasional or  
12 irregular basis for only the time required to complete such work,  
13 whether such individual is paid by the person for whom such work is  
14 performed or by an employment agency or temporary help service, as

15 defined in section 31-129 of the general statutes;

16 (3) "Employee" means an individual engaged in service to an  
17 employer in the business of the employer;

18 (4) "Employer" means any person, firm, business, educational  
19 institution, nonprofit agency, corporation, limited liability company or  
20 other entity that employs fifty or more individuals in the state in any  
21 one quarter in the previous year, which shall be determined on  
22 January first, annually. Such determination shall be made based upon  
23 the wage information submitted to the Labor Commissioner by the  
24 employer pursuant to subsection (j) of section 31-225a of the general  
25 statutes. "Employer" does not include: (A) Any business establishment  
26 classified in sector 31, 32 or 33 in the North American Industrial  
27 Classification System, or (B) any nationally chartered organization  
28 exempt from taxation under Section 501(c)(3) of the Internal Revenue  
29 Code of 1986, or any subsequent corresponding internal revenue code  
30 of the United States, as from time to time amended, that provides all of  
31 the following services: Recreation, child care and education;

32 (5) "Family violence" has the same meaning as provided in section  
33 46b-38a of the general statutes;

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

39 (7) "Service worker" means an employee primarily engaged in an  
40 occupation with one of the following broad or detailed occupation  
41 code numbers and titles, as defined by the federal Bureau of Labor  
42 Statistics Standard Occupational Classification system or any successor  
43 system: (A) 11-9050 Food Service Managers; (B) 11-9110 Medical and  
44 Health Services Managers; (C) 21-1020 Social Workers; (D) 21-1093  
45 Social and Human Service Assistants; (E) 21-1094 Community Health  
46 Workers; (F) 21-1099 Community and Social Service Specialists, All

47 Other; (G) 25-4020 Librarians; (H) 29-1050 Pharmacists; (I) 29-1070  
48 Physician Assistants; (J) 29-1120 Therapists; (K) 29-1140 Registered  
49 Nurses; (L) 29-1150 Nurse Anesthetists; (M) 29-1160 Nurse Midwives;  
50 (N) 29-1170 Nurse Practitioners; (O) 29-2020 Dental Hygienists; (P) 29-  
51 2040 Emergency Medical Technicians and Paramedics; (Q) 29-2050  
52 Health Practitioner Support Technologists and Technicians; (R) 29-2060  
53 Licensed Practical and Licensed Vocational Nurses; (S) 31-1011 Home  
54 Health Aides; (T) 31-1012 Nursing Aides, Orderlies and Attendants;  
55 (U) 31-1013 Psychiatric Aides; (V) 31-9091 Dental Assistants; (W) 31-  
56 9092 Medical Assistants; (X) 33-9032 Security Guards; (Y) 33-9091  
57 Crossing Guards; (Z) 35-1010 Supervisors of Food Preparation and  
58 Serving Workers; (AA) 35-2010 Cooks; (BB) 35-2020 Food Preparation  
59 Workers; (CC) 35-3010 Bartenders; (DD) 35-3020 Fast Food and  
60 Counter Workers; (EE) 35-3030 Waiters and Waitresses; (FF) 35-3040  
61 Food Servers, Nonrestaurant; (GG) 35-9010 Dining Room and Cafeteria  
62 Attendants and Bartender Helpers; (HH) 35-9020 Dishwashers; (II) 35-  
63 9030 Hosts and Hostesses, Restaurant, Lounge and Coffee Shop; (JJ)  
64 35-9090 Miscellaneous Food Preparation and Serving Related Workers;  
65 (KK) 37-2011 Janitors and Cleaners, Except Maids and Housekeeping  
66 Cleaners; (LL) 37-2019 Building Cleaning Workers, All Other; (MM)  
67 39-3030 Ushers, Lobby Attendants and Ticket Takers; (NN) 39-5010  
68 Barbers, Hairdressers, Hairstylists and Cosmetologists; (OO) 39-6010  
69 Baggage Porters, Bellhops and Concierges; (PP) 39-9010 Child Care  
70 Workers; (QQ) 39-9021 Personal Care Aides; (RR) 41-1010 First-Line  
71 Supervisors of Sales Workers; (SS) 41-2011 Cashiers; (TT) 41-2021  
72 Counter and Rental Clerks; (UU) 41-2030 Retail Salespersons; (VV) 43-  
73 3070 Tellers; (WW) 43-4080 Hotel, Motel and Resort Desk Clerks; (XX)  
74 43-4170 Receptionists and Information Clerks; (YY) 43-5020 Couriers  
75 and Messengers; (ZZ) 43-6010 Secretaries and Administrative  
76 Assistants; (AAA) 43-9010 Computer Operators; (BBB) 43-9020 Data  
77 Entry and Information Processing Workers; (CCC) 43-9030 Desktop  
78 Publishers; (DDD) 43-9040 Insurance Claims and Policy Processing  
79 Clerks; (EEE) 43-9050 Mail Clerks and Mail Machine Operators, Except  
80 Postal Service; (FFF) 43-9060 Office Clerks, General; (GGG) 43-9070  
81 Office Machine Operators, Except Computer; (HHH) 43-9080

82 Proofreaders and Copy Markers; (III) 43-9110 Statistical Assistants; (JJJ)  
83 43-9190 Miscellaneous Office and Administrative Support Workers;  
84 (KKK) 51-3010 Bakers; (LLL) 51-3020 Butchers and Other Meat, Poultry  
85 and Fish Processing Workers; (MMM) 51-3090 Miscellaneous Food  
86 Processing Workers; (NNN) 53-3010 Ambulance Drivers and  
87 Attendants, Except Emergency Medical Technicians; (OOO) 53-3020  
88 Bus Drivers; or (PPP) 53-3040 Taxi Drivers and Chauffeurs, and is (i)  
89 paid on an hourly basis, or (ii) not exempt from the minimum wage  
90 and overtime compensation requirements of the Fair Labor Standards  
91 Act of 1938 and the regulations promulgated thereunder, as amended  
92 from time to time. "Service worker" does not include day or temporary  
93 workers;

94 (8) "Sexual assault" means any act that constitutes a violation of  
95 section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a, 53a-72b or 53a-73a of  
96 the general statutes; and

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

98 Sec. 2. (NEW) (*Effective January 1, 2012*) (a) Each employer shall  
99 provide paid sick leave annually to each of such employer's service  
100 workers in the state. Such paid sick leave shall accrue (1) beginning  
101 January 1, 2012, or for a service worker hired after said date, beginning  
102 on the service worker's date of employment, (2) at a rate of one hour of  
103 paid sick leave for each forty hours worked by a service worker, and  
104 (3) in one-hour increments up to a maximum of forty hours per  
105 calendar year. Each service worker shall be entitled to carry over up to  
106 forty unused accrued hours of paid sick leave from the current  
107 calendar year to the following calendar year, but no service worker  
108 shall be entitled to use more than the maximum number of accrued  
109 hours, as described in subdivision (3) of this subsection, in any year.

110 (b) A service worker shall be entitled to the use of accrued paid sick  
111 leave upon the completion of the service worker's six-hundred-  
112 eightyeth hour of employment from January 1, 2012, if the service  
113 worker was hired prior to January 1, 2012, or if hired after January 1,

114 2012, upon the completion of the service worker's six-hundred-  
115 eightieth hour of employment from the date of hire, unless the  
116 employer agrees to an earlier date. A service worker shall not be  
117 entitled to the use of accrued paid sick leave if such service worker did  
118 not work an average of ten or more hours a week for the employer in  
119 the most recent complete calendar quarter.

120 (c) An employer shall be deemed to be in compliance with this  
121 section if the employer offers any other paid leave, or combination of  
122 other paid leave that (1) may be used for the purposes of section 3 of  
123 this act, and (2) is accrued in total at a rate equal to or greater than the  
124 rate described in subsections (a) and (b) of this section. For the  
125 purposes of this subsection, "other paid leave" may include, but not be  
126 limited to, paid vacation, personal days or paid time off.

127 (d) Each employer shall pay each service worker for paid sick leave  
128 at a pay rate equal to the greater of either (1) the normal hourly wage  
129 for that service worker, or (2) the minimum fair wage rate under  
130 section 31-58 of the general statutes in effect for the pay period during  
131 which the employee used paid sick leave. For any service worker  
132 whose hourly wage varies depending on the work performed by the  
133 service worker, the "normal hourly wage" shall mean the average  
134 hourly wage of the service worker in the pay period prior to the one in  
135 which the service worker used paid sick leave.

136 (e) Notwithstanding the provisions of this section and sections 3 to  
137 6, inclusive, of this act and upon the mutual consent of the service  
138 worker and employer, a service worker who chooses to work  
139 additional hours or shifts during the same or following pay period, in  
140 lieu of hours or shifts missed, shall not use accrued paid sick leave.

141 Sec. 3. (NEW) (*Effective January 1, 2012*) (a) An employer shall permit  
142 a service worker to use the paid sick leave accrued pursuant to section  
143 2 of this act:

144 (1) For (A) a service worker's illness, injury or health condition, (B)  
145 the medical diagnosis, care or treatment of a service worker's mental

146 illness or physical illness, injury or health condition, or (C)  
147 preventative medical care for a service worker;

148 (2) For (A) a service worker's child's or spouse's illness, injury or  
149 health condition, (B) the medical diagnosis, care or treatment of a  
150 service worker's child's or spouse's mental or physical illness, injury or  
151 health condition, or (C) preventative medical care for a child or spouse  
152 of a service worker; and

153 (3) Where a service worker is a victim of family violence or sexual  
154 assault (A) for medical care or psychological or other counseling for  
155 physical or psychological injury or disability, (B) to obtain services  
156 from a victim services organization, (C) to relocate due to such family  
157 violence or sexual assault, or (D) to participate in any civil or criminal  
158 proceedings related to or resulting from such family violence or sexual  
159 assault.

160 (b) If a service worker's need to use paid sick leave is foreseeable, an  
161 employer may require advance notice, not to exceed seven days prior  
162 to the date such leave is to begin, of the intention to use such leave. If a  
163 service worker's need for such leave is not foreseeable, an employer  
164 may require a service worker to give notice of such intention as soon as  
165 practicable. For paid sick leave of three or more consecutive days, an  
166 employer may require reasonable documentation that such leave is  
167 being taken for the purpose permitted under subsection (a) of this  
168 section. If such leave is permitted under subdivision (1) or (2) of  
169 subsection (a) of this section, documentation signed by a health care  
170 provider who is treating the service worker or the service worker's  
171 child or spouse indicating the need for the number of days of such  
172 leave shall be considered reasonable documentation. If such leave is  
173 permitted under subdivision (3) of subsection (a) of this section, a  
174 court record or documentation signed by a service worker or volunteer  
175 working for a victim services organization, an attorney, a police officer  
176 or other counselor involved with the service worker shall be  
177 considered reasonable documentation.

178 (c) Nothing in sections 2 to 6, inclusive, of this act shall be deemed  
179 to require any employer to provide paid sick leave for a service  
180 worker's leave for any purpose other than those described in this  
181 section.

182 (d) Unless an employee policy or collective bargaining agreement  
183 provides for the payment of accrued fringe benefits upon termination,  
184 no service worker shall be entitled to payment of unused accrued sick  
185 leave under this section upon termination of employment.

186 (e) Nothing in sections 2 to 6, inclusive, of this act shall be construed  
187 to prohibit an employer from taking disciplinary action against a  
188 service worker who uses paid sick leave provided under sections 2 to  
189 6, inclusive, of this act for purposes other than those described in this  
190 section.

191 Sec. 4. (NEW) (*Effective January 1, 2012*) (a) Nothing in sections 2 to 6,  
192 inclusive, of this act shall be construed to (1) prevent employers from  
193 providing more paid sick leave than is required under sections 2 to 6,  
194 inclusive, of this act, (2) diminish any rights provided to any employee  
195 or service worker under a collective bargaining agreement, or (3)  
196 preempt or override the terms of any collective bargaining agreement  
197 effective prior to January 1, 2012.

198 (b) Nothing in sections 2 to 6, inclusive, of this act shall be construed  
199 to prohibit an employer (1) from establishing a policy whereby a  
200 service worker may donate unused accrued paid sick leave to another  
201 service worker, and (2) who provides more paid sick leave than is  
202 required under sections 2 to 6, inclusive, of this act for the purposes  
203 described in subdivision (1) of subsection (a) of section 3 of this act  
204 from limiting the amount of such leave a service worker may use for  
205 other purposes.

206 (c) Any termination of a service worker's employment by an  
207 employer, whether voluntary or involuntary, shall be construed as a  
208 break in service. Should any service worker subsequently be rehired  
209 by the employer following a break in service, the service worker shall

210 (1) begin to accrue sick leave in accordance with section 2 of this act,  
211 and (2) shall not be entitled to any unused hours of paid sick leave that  
212 had been accrued prior to the service worker's break in service unless  
213 agreed to by the employer.

214 Sec. 5. (NEW) (*Effective January 1, 2012*) (a) No employer shall take  
215 retaliatory personnel action or discriminate against an employee  
216 because the employee (1) requests or uses paid sick leave either in  
217 accordance with sections 2 and 3 of this act or in accordance with the  
218 employer's own paid sick leave policy, as the case may be, or (2) files a  
219 complaint with the Labor Commissioner alleging the employer's  
220 violation of sections 2 to 6, inclusive, of this act.

221 (b) The Labor Commissioner shall advise any employee who (1) is  
222 covered by a collective bargaining agreement that provides for paid  
223 sick days, and (2) files a complaint pursuant to subsection (a) of this  
224 section, of his or her right to pursue a grievance with his or her  
225 collective bargaining agent.

226 (c) Any employee aggrieved by a violation of the provisions of  
227 sections 2 to 6, inclusive, of this act may file a complaint with the Labor  
228 Commissioner. Upon receipt of any such complaint, said  
229 commissioner may hold a hearing. After the hearing, any employer  
230 who is found by the Labor Commissioner, by a preponderance of the  
231 evidence, to have violated the provisions of subsection (a) of this  
232 section shall be liable to the Labor Department for a civil penalty of  
233 five hundred dollars for each violation. Any employer who is found by  
234 the Labor Commissioner, by a preponderance of the evidence, to have  
235 violated the provisions of sections 2 to 4, inclusive, or section 6 of this  
236 act shall be liable to the Labor Department for a civil penalty of up to  
237 one hundred dollars for each violation. The Labor Commissioner may  
238 award the employee all appropriate relief, including the payment for  
239 used paid sick leave, rehiring or reinstatement to the employee's  
240 previous job, payment of back wages and reestablishment of employee  
241 benefits to which the employee otherwise would have been eligible if  
242 the employee had not been subject to such retaliatory personnel action



243 or discriminated against. Any party aggrieved by the decision of the  
 244 commissioner may appeal the decision to the Superior Court in  
 245 accordance with the provisions of chapter 54 of the general statutes.

246 (d) The Labor Commissioner shall administer this section within  
 247 available appropriations.

248 Sec. 6. (NEW) (*Effective January 1, 2012*) Each employer subject to the  
 249 provisions of section 2 of this act shall, at the time of hiring, provide  
 250 notice to each service worker (1) of the entitlement to sick leave for  
 251 service workers, the amount of sick leave provided to service workers  
 252 and the terms under which sick leave may be used, (2) that retaliation  
 253 by the employer against the service worker for requesting or using sick  
 254 leave for which the service worker is eligible is prohibited, and (3) that  
 255 the service worker has a right to file a complaint with the Labor  
 256 Commissioner for any violation of this section and of sections 2 to 5,  
 257 inclusive, of this act. Employers may comply with the provisions of  
 258 this section by displaying a poster in a conspicuous place, accessible to  
 259 service workers, at the employer's place of business that contains the  
 260 information required by this section in both English and Spanish. The  
 261 Labor Commissioner may adopt regulations, in accordance with  
 262 chapter 54 of the general statutes, to establish additional requirements  
 263 concerning the means by which employers shall provide such notice.  
 264 The Labor Commissioner shall administer this section within available  
 265 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
Sec. 6	<i>January 1, 2012</i>	New section