



General Assembly

January Session, 2011

**Amendment**

LCO No. 6837

**\*SB0091306837SD0\***

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 31-225 of the general  
25 statutes. "Employer" does not include any nationally chartered  
26 organization exempt from taxation under Section 501(c)(3) of the  
27 Internal Revenue Code of 1986, or any subsequent corresponding  
28 internal revenue code of the United States, as from time to time  
29 amended, that provides all of the following services: Recreation, child  
30 care and education;

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

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

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

45 Workers; (F) 21-1099 Community and Social Service Specialists, All  
46 Other; (G) 25-4020 Librarians; (H) 29-1050 Pharmacists; (I) 29-1070  
47 Physician Assistants; (J) 29-1120 Therapists; (K) 29-1140 Registered  
48 Nurses; (L) 29-1150 Nurse Anesthetists; (M) 29-1160 Nurse Midwives;  
49 (N) 29-1170 Nurse Practitioners; (O) 29-2020 Dental Hygienists; (P) 29-  
50 2040 Emergency Medical Technicians and Paramedics; (Q) 29-2050  
51 Health Practitioner Support Technologists and Technicians; (R) 29-2060  
52 Licensed Practical and Licensed Vocational Nurses; (S) 31-1011 Home  
53 Health Aides; (T) 31-1012 Nursing Aides, Orderlies and Attendants;  
54 (U) 31-1013 Psychiatric Aides; (V) 31-9091 Dental Assistants; (W) 31-  
55 9092 Medical Assistants; (X) 33-9032 Security Guards; (Y) 33-9091  
56 Crossing Guards; (Z) 35-1010 Supervisors of Food Preparation and  
57 Serving Workers; (AA) 35-2010 Cooks; (BB) 35-2020 Food Preparation  
58 Workers; (CC) 35-3010 Bartenders; (DD) 35-3020 Fast Food and  
59 Counter Workers; (EE) 35-3030 Waiters and Waitresses; (FF) 35-3040  
60 Food Servers, Nonrestaurant; (GG) 35-9010 Dining Room and Cafeteria  
61 Attendants and Bartender Helpers; (HH) 35-9020 Dishwashers; (II) 35-  
62 9030 Hosts and Hostesses, Restaurant, Lounge and Coffee Shop; (JJ)  
63 35-9090 Miscellaneous Food Preparation and Serving Related Workers;  
64 (KK) 37-2011 Janitors and Cleaners, Except Maids and Housekeeping  
65 Cleaners; (LL) 37-2019 Building Cleaning Workers, All Other; (MM)  
66 39-3030 Ushers, Lobby Attendants and Ticket Takers; (NN) 39-5010  
67 Barbers, Hairdressers, Hairstylists and Cosmetologists; (OO) 39-6010  
68 Baggage Porters, Bellhops and Concierges; (PP) 39-9010 Child Care  
69 Workers; (QQ) 39-9021 Personal Care Aides; (RR) 41-1010 First-Line  
70 Supervisors of Sales Workers; (SS) 41-2011 Cashiers; (TT) 41-2021  
71 Counter and Rental Clerks; (UU) 41-2030 Retail Salespersons; (VV) 43-  
72 3070 Tellers; (WW) 43-4080 Hotel, Motel and Resort Desk Clerks; (XX)  
73 43-4170 Receptionists and Information Clerks; (YY) 43-5020 Couriers  
74 and Messengers; (ZZ) 43-6010 Secretaries and Administrative  
75 Assistants; (AAA) 43-9010 Computer Operators; (BBB) 43-9020 Data  
76 Entry and Information Processing Workers; (CCC) 43-9030 Desktop  
77 Publishers; (DDD) 43-9040 Insurance Claims and Policy Processing  
78 Clerks; (EEE) 43-9050 Mail Clerks and Mail Machine Operators, Except  
79 Postal Service; (FFF) 43-9060 Office Clerks, General; (GGG) 43-9070

80 Office Machine Operators, Except Computer; (HHH) 43-9080  
81 Proofreaders and Copy Markers; (III) 43-9110 Statistical Assistants; (JJJ)  
82 43-9190 Miscellaneous Office and Administrative Support Workers;  
83 (KKK) 51-3010 Bakers; (LLL) 51-3020 Butchers and Other Meat, Poultry  
84 and Fish Processing Workers; (MMM) 51-3090 Miscellaneous Food  
85 Processing Workers; (NNN) 53-3010 Ambulance Drivers and  
86 Attendants, Except Emergency Medical Technicians; (OOO) 53-3020  
87 Bus Drivers; or (PPP) 53-3040 Taxi Drivers and Chauffeurs, and is (i)  
88 paid on an hourly basis, or (ii) not exempt from the minimum wage  
89 and overtime compensation requirements of the Fair Labor Standards  
90 Act of 1938 and the regulations promulgated thereunder, as amended  
91 from time to time. "Service worker" does not include day or temporary  
92 workers;

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

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

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

109 (b) A service worker shall be entitled to the use of accrued paid sick  
110 leave upon the completion of the service worker's six-hundred-  
111 eightieth hour of employment from January 1, 2012, if the service

112 worker was hired prior to January 1, 2012, or if hired after January 1,  
113 2012, upon the completion of the service worker's six-hundred-  
114 eightieth hour of employment from the date of hire, unless the  
115 employer agrees to an earlier date. A service worker shall not be  
116 entitled to the use of accrued paid sick leave if such service worker did  
117 not work an average of ten or more hours a week for the employer in  
118 the most recent complete calendar quarter.

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

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

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

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

143 (1) For (A) a service worker's illness, injury or health condition, (B)

144 the medical diagnosis, care or treatment of a service worker's mental  
145 illness or physical illness, injury or health condition, or (C)  
146 preventative medical care for a service worker;

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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