



House of Representatives

General Assembly

File No. 151

February Session, 2014

Substitute House Bill No. 5269

House of Representatives, March 27, 2014

The Committee on Commerce reported through REP. PERONE of the 137th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CREATING PARITY BETWEEN PAID SICK LEAVE BENEFITS AND OTHER EMPLOYER-PROVIDED BENEFITS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-57r of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective January 1, 2015*):

3 As used in this section and sections 31-57s to 31-57w, inclusive, as
4 amended by 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;

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] based on such
25 person's, firm's, business', educational institution's, nonprofit agency's,
26 corporation's, limited liability company's or other entity's payroll for
27 the week containing October first, annually. "Employer" does not
28 include: (A) Any business [establishment classified in] that is primarily
29 engaged in activities that would be included in sector 31, 32 or 33 in
30 the North American Industrial Classification System, or (B) any
31 nationally chartered organization exempt from taxation under Section
32 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent
33 corresponding internal revenue code of the United States, as from time
34 to time amended, that provides all of the following services:
35 Recreation, child care and education;

36 (5) "Family violence" has the same meaning as provided in section
37 46b-38a;

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

43 (7) "Service worker" means an employee primarily engaged in an
44 occupation with one of the following broad or detailed occupation

45 code numbers and titles, as defined by the federal Bureau of Labor
46 Statistics Standard Occupational Classification system or any successor
47 system: (A) 11-9050 Food Service Managers; (B) 11-9110 Medical and
48 Health Services Managers; (C) 21-1020 Social Workers; (D) 21-1093
49 Social and Human Service Assistants; (E) 21-1094 Community Health
50 Workers; (F) 21-1099 Community and Social Service Specialists, All
51 Other; (G) 25-4020 Librarians; (H) 29-1050 Pharmacists; (I) 29-1070
52 Physician Assistants; (J) 29-1120 Therapists; (K) 29-1140 Registered
53 Nurses; (L) 29-1150 Nurse Anesthetists; (M) 29-1160 Nurse Midwives;
54 (N) 29-1170 Nurse Practitioners; (O) 29-2020 Dental Hygienists; (P) 29-
55 2040 Emergency Medical Technicians and Paramedics; (Q) 29-2050
56 Health Practitioner Support Technologists and Technicians; (R) 29-2060
57 Licensed Practical and Licensed Vocational Nurses; (S) 31-1011 Home
58 Health Aides; (T) 31-1012 Nursing Aides, Orderlies and Attendants;
59 (U) 31-1013 Psychiatric Aides; (V) 31-9091 Dental Assistants; (W) 31-
60 9092 Medical Assistants; (X) 33-9032 Security Guards; (Y) 33-9091
61 Crossing Guards; (Z) 35-1010 Supervisors of Food Preparation and
62 Serving Workers; (AA) 35-2010 Cooks; (BB) 35-2020 Food Preparation
63 Workers; (CC) 35-3010 Bartenders; (DD) 35-3020 Fast Food and
64 Counter Workers; (EE) 35-3030 Waiters and Waitresses; (FF) 35-3040
65 Food Servers, Nonrestaurant; (GG) 35-9010 Dining Room and Cafeteria
66 Attendants and Bartender Helpers; (HH) 35-9020 Dishwashers; (II) 35-
67 9030 Hosts and Hostesses, Restaurant, Lounge and Coffee Shop; (JJ)
68 35-9090 Miscellaneous Food Preparation and Serving Related Workers;
69 (KK) 37-2011 Janitors and Cleaners, Except Maids and Housekeeping
70 Cleaners; (LL) 37-2019 Building Cleaning Workers, All Other; (MM)
71 39-3030 Ushers, Lobby Attendants and Ticket Takers; (NN) 39-5010
72 Barbers, Hairdressers, Hairstylists and Cosmetologists; (OO) 39-6010
73 Baggage Porters, Bellhops and Concierges; (PP) 39-9010 Child Care
74 Workers; (QQ) 39-9021 Personal Care Aides; (RR) 41-1010 First-Line
75 Supervisors of Sales Workers; (SS) 41-2011 Cashiers; (TT) 41-2021
76 Counter and Rental Clerks; (UU) 41-2030 Retail Salespersons; (VV) 43-
77 3070 Tellers; (WW) 43-4080 Hotel, Motel and Resort Desk Clerks; (XX)
78 43-4170 Receptionists and Information Clerks; (YY) 43-5020 Couriers
79 and Messengers; (ZZ) 43-6010 Secretaries and Administrative

80 Assistants; (AAA) 43-9010 Computer Operators; (BBB) 43-9020 Data
81 Entry and Information Processing Workers; (CCC) 43-9030 Desktop
82 Publishers; (DDD) 43-9040 Insurance Claims and Policy Processing
83 Clerks; (EEE) 43-9050 Mail Clerks and Mail Machine Operators, Except
84 Postal Service; (FFF) 43-9060 Office Clerks, General; (GGG) 43-9070
85 Office Machine Operators, Except Computer; (HHH) 43-9080
86 Proofreaders and Copy Markers; (III) 43-9110 Statistical Assistants; (JJJ)
87 43-9190 Miscellaneous Office and Administrative Support Workers;
88 (KKK) 51-3010 Bakers; (LLL) 51-3020 Butchers and Other Meat, Poultry
89 and Fish Processing Workers; (MMM) 51-3090 Miscellaneous Food
90 Processing Workers; (NNN) 53-3010 Ambulance Drivers and
91 Attendants, Except Emergency Medical Technicians; (OOO) 53-3020
92 Bus Drivers; or (PPP) 53-3040 Taxi Drivers and Chauffeurs, and is (i)
93 paid on an hourly basis, or (ii) not exempt from the minimum wage
94 and overtime compensation requirements of the Fair Labor Standards
95 Act of 1938 and the regulations promulgated thereunder, as amended
96 from time to time. "Service worker" does not include day or temporary
97 workers;

98 (8) "Sexual assault" means any act that constitutes a violation of
99 section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a, 53a-72b or 53a-73a;
100 [and]

101 (9) "Spouse" means a husband or wife, as the case may be; [.] and

102 (10) "Year" means any three-hundred-sixty-five-day period used by
103 an employer to calculate employee benefits.

104 Sec. 2. Section 31-57s of the general statutes is repealed and the
105 following is substituted in lieu thereof (*Effective January 1, 2015*):

106 (a) Each employer shall provide paid sick leave annually to each of
107 such employer's service workers in the state. Such paid sick leave shall
108 accrue (1) beginning January 1, 2012, or for a service worker hired after
109 said date, beginning on the service worker's date of employment, (2) at
110 a rate of one hour of paid sick leave for each forty hours worked by a
111 service worker, and (3) in one-hour increments up to a maximum of

112 forty hours per [calendar] year. Each service worker shall be entitled to
113 carry over up to forty unused accrued hours of paid sick leave from
114 the current [calendar] year to the following [calendar] year, but no
115 service worker shall be entitled to use more than the maximum
116 number of accrued hours, as described in subdivision (3) of this
117 subsection, in any year.

118 (b) A service worker shall be entitled to the use of accrued paid sick
119 leave upon the completion of the service worker's six-hundred-
120 eightieth hour of employment from January 1, 2012, if the service
121 worker was hired prior to January 1, 2012, or if hired after January 1,
122 2012, upon the completion of the service worker's six-hundred-
123 eightieth hour of employment from the date of hire, unless the
124 employer agrees to an earlier date. A service worker shall not be
125 entitled to the use of accrued paid sick leave if such service worker did
126 not work an average of ten or more hours [a] per week for the
127 employer in the most recent complete [calendar] quarter.

128 (c) An employer shall be deemed to be in compliance with this
129 section if the employer offers any other paid leave, or combination of
130 other paid leave that (1) may be used for the purposes of section 31-57t,
131 as amended by this act, and (2) is accrued in total at a rate equal to or
132 greater than the rate described in subsections (a) and (b) of this section.
133 For the purposes of this subsection, "other paid leave" may include, but
134 not be limited to, paid vacation, personal days or paid time off.

135 (d) Each employer shall pay each service worker for paid sick leave
136 at a pay rate equal to the greater of either (1) the normal hourly wage
137 for that service worker, or (2) the minimum fair wage rate under
138 section 31-58 in effect for the pay period during which the employee
139 used paid sick leave. For any service worker whose hourly wage varies
140 depending on the work performed by the service worker, the "normal
141 hourly wage" shall mean the average hourly wage of the service
142 worker in the pay period prior to the one in which the service worker
143 used paid sick leave.

144 (e) Notwithstanding the provisions of this section and sections 31-

145 57t to 31-57w, inclusive, as amended by this act, and upon the mutual
 146 consent of the service worker and employer, a service worker who
 147 chooses to work additional hours or shifts during the same or
 148 following pay period, in lieu of hours or shifts missed, shall not use
 149 accrued paid sick leave.

150 Sec. 3. Subsection (b) of section 31-57t of the general statutes is
 151 repealed and the following is substituted in lieu thereof (*Effective*
 152 *January 1, 2015*):

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2015</i>	31-57r
Sec. 2	<i>January 1, 2015</i>	31-57s
Sec. 3	<i>January 1, 2015</i>	31-57t(b)

Statement of Legislative Commissioners:

In section 31-57r(4), "based on the employer's payroll for the week containing October first, annually." was changed to "based on such person's, firm's, business', educational institution's, nonprofit agency's, corporation's, limited liability company's or other entity's payroll for the week containing October first, annually. for consistency in defining the term "employer".

CE *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None**Explanation**

The bill alters the method employers use to determine if they must provide paid sick leave and changes the timeframe for accruing paid sick leave. This does not result in any fiscal impact to the state or municipalities.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis

sHB 5269

AN ACT CREATING PARITY BETWEEN PAID SICK LEAVE BENEFITS AND OTHER EMPLOYER-PROVIDED BENEFITS.

SUMMARY:

This bill changes the criteria businesses use to determine if they are exempt from providing paid sick leave. By law, a business is exempt from providing such leave (1) based the types of activities occurring at its facilities and (2) on its overall Connecticut employment level. It is exempt under current law from providing paid sick leave only at those facilities used for manufacturing. It is exempt under the bill if it is classified as a manufacturer under the North American Industrial Classification System (NAICS), regardless of the activities occurring at each facility.

A nonmanufacturing business must provide paid sick leave under current law if it employs 50 or more people in Connecticut during any of the prior calendar year's quarters. Under the bill, it must do so if it employs 50 or more people based on its payroll for the week containing October 1.

The bill changes the timeframe for accruing paid sick leave. Under current law, employees accrue one hour of sick leave for every 40 hours worked per calendar year. Under the bill, they accrue one hour of paid sick leave for every 40 hours worked during whatever 365-day year the business uses to calculate employee benefits. This allows the employer to start the benefit year on any date, rather than only on January 1. The bill makes conforming changes.

EFFECTIVE DATE: January 1, 2015

MANUFACTURING EXEMPTION

The bill extends the law’s manufacturing exemption to all facilities a manufacturer operates. Current law exempts a manufacturer from providing paid sick leave based on how NAICS classifies the type of activity conducted at each of its facilities. Consequently, a manufacturer with separate administrative facilities and manufacturing plants could be required to provide paid sick leave at the former, but not at the latter.

The bill exempts the business from providing paid sick leave as long as it primarily falls under NAICS’s manufacturing categories, regardless of the activities conducted at its different facilities. This could reduce the number of a business’ employees entitled to the paid sick leave benefit.

NONMANUFACTURING BUSINESSES

The bill also changes the method for determining if a nonmanufacturing business is exempt from providing paid sick leave. Under current law, it must provide the leave if it employs 50 or more people in Connecticut during any of the previous year’s quarters. It must determine if it exceeds this threshold by January 1 annually based on the quarterly reports it submits to the labor commissioner. Under the bill, the 50-employee threshold applies for the year if the business employs at least that number of employees based on its payroll for the week containing October 1.

COMMITTEE ACTION

Commerce Committee

Joint Favorable

Yea 13 Nay 3 (03/11/2014)