



House of Representatives

File No. 740

General Assembly

February Session, 2014

(Reprint of File No. 151)

Substitute House Bill No. 5269
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 2, 2014

**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 Section 31-57r of the general statutes is repealed and the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 sector 31, 32 or 33
29 in the North American Industrial Classification System, or (B) any
30 nationally chartered organization exempt from taxation under Section
31 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent
32 corresponding internal revenue code of the United States, as from time
33 to time amended, that provides all of the following services:
34 Recreation, child care and education;

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

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

42 (7) "Service worker" means an employee primarily engaged in an
43 occupation with one of the following broad or detailed occupation
44 code numbers and titles, as defined by the federal Bureau of Labor
45 Statistics Standard Occupational Classification system or any successor

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

81 Publishers; (DDD) 43-9040 Insurance Claims and Policy Processing
82 Clerks; (EEE) 43-9050 Mail Clerks and Mail Machine Operators, Except
83 Postal Service; (FFF) 43-9060 Office Clerks, General; (GGG) 43-9070
84 Office Machine Operators, Except Computer; (HHH) 43-9080
85 Proofreaders and Copy Markers; (III) 43-9110 Statistical Assistants; (JJJ)
86 43-9190 Miscellaneous Office and Administrative Support Workers;
87 (KKK) 51-3010 Bakers; (LLL) 51-3020 Butchers and Other Meat, Poultry
88 and Fish Processing Workers; (MMM) 51-3090 Miscellaneous Food
89 Processing Workers; (NNN) 53-3010 Ambulance Drivers and
90 Attendants, Except Emergency Medical Technicians; (OOO) 53-3020
91 Bus Drivers; [or] (PPP) 53-3040 Taxi Drivers and Chauffeurs; or (QQQ)
92 29-2034 Radiologic Technologists, and is (i) paid on an hourly basis, or
93 (ii) not exempt from the minimum wage and overtime compensation
94 requirements of the Fair Labor Standards Act of 1938 and the
95 regulations promulgated thereunder, as amended from time to time.
96 "Service worker" does not include day or temporary workers;

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

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

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

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

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

113 the current [calendar] year to the following [calendar] year, but no
114 service worker shall be entitled to use more than the maximum
115 number of accrued hours, as described in subdivision (3) of this
116 subsection, in any year.

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

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

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

143 (e) Notwithstanding the provisions of this section and sections 31-
144 57t to 31-57w, inclusive, as amended by this act, and upon the mutual

145 consent of the service worker and employer, a service worker who
146 chooses to work additional hours or shifts during the same or
147 following pay period, in lieu of hours or shifts missed, shall not use
148 accrued paid sick leave.

149 (f) No employer shall (1) terminate any employee, (2) dismiss any
150 employee, or (3) transfer any employee from one worksite to another
151 solely in order to not qualify as an employer, as defined in section 31-
152 57r, as amended by this act.

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

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2015	31-57r

Sec. 2	<i>January 1, 2015</i>	31-57s
Sec. 3	<i>January 1, 2015</i>	31-57t(b)

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 certain employers use to determine if they must provide paid sick leave, changes the timeframe for accruing paid sick leave, extends the right to paid sick leave to radiologic technologists, and prohibits businesses from taking certain actions to avoid having to provide paid sick leave. This does not result in any fiscal impact to the state or municipalities.

House "A" makes definitional changes to the paid sick leave statutes and prohibits employers from reducing employees in order to avoid having to provide paid sick leave.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5269 (as amended by House "A")******AN ACT CREATING PARITY BETWEEN PAID SICK LEAVE BENEFITS AND OTHER EMPLOYER-PROVIDED BENEFITS.*****SUMMARY:**

This bill 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 business must determine if it meets the annual 50-employee threshold base on the number of employees on its payroll for the week containing October 1.

The bill also prohibits the business from taking certain actions to avoid providing paid sick leave. Specifically, the business cannot fire, dismiss, or transfer an employee from one job site to another to come under the 50-employee threshold. Workers aggrieved by such practices may file a complaint with the labor commissioner, as the law allows.

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.

The bill additionally extends to radiologic technologists the right to paid sick leave that current law grants to other service workers in

specified occupational categories (see BACKGROUND).

*House Amendment "A" (1) eliminates the original file's change to the basis for exempting manufacturers from providing paid sick leave, (2) prohibits businesses from engaging in certain practices to avoid providing paid leave, and (3) extends paid sick leave to radiologic workers.

EFFECTIVE DATE: January 1, 2015

BACKGROUND

Paid Sick Leave for Service Workers

By law, a service worker is entitled to leave if his or her employer employs at least 50 people in Connecticut. The worker can use the leave for his or her or a spouse's or child's:

1. illness, injury, or health condition;
2. medical diagnosis, care, treatment of a mental or physical illness, injury, or health condition; or
3. preventive medical care.

The employer must notify each worker when he or she is hired about the paid sick leave benefit.

COMMITTEE ACTION

Commerce Committee

Joint Favorable

Yea 13 Nay 3 (03/11/2014)

Labor and Public Employees Committee

Joint Favorable

Yea 8 Nay 1 (04/07/2014)