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# A BILL FOR AN ACT

RELATING TO LABOR.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

- 1           SECTION 1. The legislature finds that:
- 2           (1) Most workers in the State, at some time during the
- 3           year, need temporary time off from work to take care
- 4           of personal health needs or the health needs of
- 5           members of their families;
- 6           (2) Nationally, nearly forty per cent of private sector
- 7           workers are without any paid sick leave. In Hawaii,
- 8           an estimated forty-three per cent of private sector
- 9           workers lack paid sick leave;
- 10          (3) Low-income workers are significantly less likely to
- 11          have paid sick leave than other members of the
- 12          workforce. Only one in five low-income workers has
- 13          access to paid sick leave;
- 14          (4) Providing workers time off to attend to their personal
- 15          health care needs and the health care needs of family
- 16          members would ensure a healthier and more productive
- 17          workforce in the State;



- 1 (5) Nearly two hundred fifty thousand people in the State  
2 serve as unpaid family caregivers for family members,  
3 work that has an aggregate value of \$1,900,000 per  
4 year. Working family caregivers cannot adequately  
5 care for their relatives without access to paid sick  
6 leave;
- 7 (6) Paid sick leave would have a positive effect on the  
8 public health of residents of the State by allowing  
9 workers the option of staying home when ill, thus  
10 lessening recovery time and reducing the likelihood of  
11 spreading illness to other members of the workforce  
12 and to the public;
- 13 (7) Paid sick leave will reduce health care expenditures  
14 by promoting access to primary and preventive care.  
15 Nationally, providing all workers with paid sick leave  
16 would result in \$1,100,000,000 in annual savings in  
17 hospital emergency room costs, including more than  
18 \$500,000,000 in savings to publicly funded health  
19 insurance programs such as Medicare, medicaid, and the  
20 state children's health insurance program. Access to  
21 paid sick leave can also help decrease the likelihood



1 that a worker will put off needed care and increase  
2 the use of preventive care among workers and their  
3 family members;

4 (8) Paid sick leave will allow parents to provide personal  
5 care for their sick children. Parental care makes  
6 children's recovery faster and can prevent future  
7 health problems. Parents who do not have paid sick  
8 leave are more than twice as likely as parents with  
9 paid sick days to send a sick child to school or  
10 daycare and are five times as likely to report taking  
11 their child or other family member to a hospital  
12 emergency room because they were unable to take time  
13 off from work during regular work hours;

14 (9) Paid sick leave will reduce contagion. Workers in  
15 jobs with high levels of public contact, such as  
16 restaurant workers and child care workers, are  
17 unlikely to have paid sick leave. As a result, these  
18 workers may have no choice but to go to work when they  
19 are ill, thereby increasing the risk of passing  
20 illnesses on to co-workers and customers while  
21 jeopardizing their own health. Overall, people



1 without paid sick leave are 1.5 times more likely than  
2 people with paid sick leave to go to work with a  
3 contagious illness like the flu;

4 (10) Employees frequently lose their jobs or are  
5 disciplined for taking sick leave to care for sick  
6 family members or even to recover from their own  
7 illness. One in six workers report that they or a  
8 family member has been fired, suspended, punished, or  
9 threatened by an employer because they needed to take  
10 sick leave for themselves or a family member;

11 (11) When an outbreak that presents a threat to public  
12 health occurs, for example the H1N1 outbreak of 2009,  
13 government officials request that sick workers stay  
14 home and keep sick children home from school or child  
15 care to prevent the spread of the illness and to  
16 safeguard workplace productivity. However, to protect  
17 their paychecks and their jobs, many workers who  
18 lacked paid sick leave were unable to comply with  
19 these requests;

20 (12) During the height of the H1N1 pandemic, workers with  
21 lower rates of access to paid sick leave were more



1 likely than those with higher rates of access to paid  
2 sick leave to go to work sick. As a result, the  
3 pandemic lasted longer in their workplaces as the  
4 virus spread from co-worker to co-worker. One study  
5 estimates that lack of paid sick leave was responsible  
6 for five million cases of influenza-like illness  
7 during the pandemic;

8 (13) Providing a minimal amount of paid sick leave is  
9 affordable for employers. Paid sick leave results in  
10 reduced worker turnover, which leads to reduced costs  
11 incurred from recruiting, interviewing, and training  
12 new hires. Firing and replacing workers can cost  
13 anywhere from twenty-five to two hundred per cent of  
14 an employee's annual compensation;

15 (14) Paid sick leave will reduce the risk of  
16 "presenteeism", or workers coming to work with  
17 illnesses and health conditions that reduce their  
18 productivity, a problem that costs the national  
19 economy \$160,000,000,000 annually; and



1 (15) Paid sick leave will reduce the competitive  
2 disadvantage currently faced by the many employers  
3 that do choose to provide sick leave to their workers.

4 The purpose of this Act is to establish the right for  
5 workers to accrue paid sick leave to:

6 (1) Ensure that all workers in the State can address their  
7 own health needs and the health needs of their  
8 families by requiring employers to provide a minimum  
9 level of paid sick leave, including time for family  
10 care;

11 (2) Diminish public and private health care costs in the  
12 State by enabling workers to seek early and routine  
13 medical care for themselves and their family members;

14 (3) Protect public health in the State by reducing the  
15 risk of contagion;

16 (4) Promote economic security and stability of workers and  
17 their families in the State;

18 (5) Protect employees in the State from losing their jobs  
19 when they use sick leave to care for themselves or  
20 their families;



- 1 (6) Safeguard public welfare, health, safety, and the
- 2 prosperity of the people of the State; and
- 3 (7) Accomplish the purpose of this Act in a manner that is
- 4 feasible for employers.

5 SECTION 2. The Hawaii Revised Statutes is amended by  
 6 adding a new chapter to be appropriately designated and to read  
 7 as follows:

8 "CHAPTER

9 PAID SICK LEAVE

10 § -1 Definitions. As used in this chapter, unless the  
 11 context clearly requires otherwise:

12 "Department" means the department of labor and industrial  
 13 relations.

14 "Director" means the director of labor and industrial  
 15 relations.

16 "Employee" has the same meaning as defined in the federal  
 17 Fair Labor Standards Act, Title 29 United States Code section  
 18 203(e), and additionally includes recipients of public benefits  
 19 who are engaged in work activity as a condition of receiving  
 20 public assistance and public employees who are not subject to  
 21 the civil service laws of the State, a political subdivision, or



1 a public agency. The term "employee" shall not include sole  
2 proprietors and independent contractors.

3 "Employer" has the same meaning as defined in the federal  
4 Fair Labor Standards Act, Title 29 United States Code section  
5 203(d).

6 "Family member" means:

- 7 (1) A biological, adopted, or foster child; stepchild;  
8 legal ward; a child of a reciprocal beneficiary; or a  
9 child to whom the employee stands in loco parentis;
- 10 (2) A biological, adoptive, or foster parent; stepparent;  
11 legal guardian of an employee or an employee's spouse  
12 or reciprocal beneficiary; or a person who stood in  
13 loco parentis when the employee was a minor child;
- 14 (3) A spouse or reciprocal beneficiary; and
- 15 (4) A biological, adopted, or foster sibling; or a spouse  
16 or reciprocal beneficiary of a biological, adopted, or  
17 foster sibling.

18 "Health care professional" has the same meaning as defined  
19 in section 432E-1.

20 "Labor organization" has the same meaning as defined in  
21 section 378-1.





1 "Paid sick leave" means time away from work provided by an  
2 employer to an employee that is compensated at the same hourly  
3 rate and with the same benefits, including health care benefits,  
4 as the employee normally earns during hours worked.

5 § -2 Accrual of paid sick leave. (a) All employees who  
6 work in the State for more than six hundred eighty hours in a  
7 year shall have the right to paid sick leave as provided in this  
8 chapter.

9 (b) All employees shall accrue a minimum of one hour of  
10 paid sick leave for every forty hours worked. Employees shall  
11 not accrue more than forty hours of paid sick leave in a  
12 calendar year, unless the employer provides a higher limit.

13 (c) Employees who are exempt from overtime requirements  
14 under the federal Fair Labor Standards Act, Title 29 United  
15 States Code section 213(a)(1), shall be assumed to work forty  
16 hours in each work week for purposes of paid sick leave accrual  
17 unless the employee's normal work week is less than forty hours,  
18 in which case paid sick leave shall accrue based upon the actual  
19 hours in the employee's normal work week.

20 (d) Employees shall be entitled to use accrued paid sick  
21 leave beginning on the seven hundred fiftieth hour following



1 commencement of employment. After the seven hundred fiftieth  
2 hour of employment, employees may use paid sick leave as it is  
3 accrued.

4 (e) An employer shall not be required to provide  
5 additional paid sick leave if the employer has a paid leave  
6 policy that makes available an amount of paid leave sufficient  
7 to meet the accrual requirements of this chapter and that may be  
8 used for the same purposes and under the same conditions as paid  
9 sick leave under this chapter.

10 (f) Nothing in this section shall be construed as  
11 requiring financial or other reimbursement to an employee from  
12 an employer upon the employee's termination, resignation,  
13 retirement, or other separation from employment for unused  
14 accrued paid sick leave.

15 (g) An employer may advance paid sick leave to an employee  
16 prior to its accrual by the employee.

17 **§ -3 Use of paid sick leave.** (a) An employee may use  
18 paid sick leave during absences from work due to:

19 (1) An employee's mental or physical illness, injury, or  
20 health condition; an employee's need for medical  
21 diagnosis, care, or treatment of a mental or physical



1 illness, injury, or health condition; or an employee's  
2 need for preventive medical care;

3 (2) Care of a family member with a mental or physical  
4 illness, injury, or health condition; care of a family  
5 member who needs medical diagnosis, care, or treatment  
6 of a mental or physical illness, injury, or health  
7 condition; or care of a family member who needs  
8 preventive medical care; and

9 (3) Closure of the employee's place of business by order  
10 of a public official due to a public health emergency,  
11 an employee's need to care for a child whose school or  
12 place of care has been closed by order of a public  
13 official due to a public health emergency, or care for  
14 a family member when it has been determined by the  
15 health authorities having jurisdiction or by a health  
16 care professional that the family member's presence in  
17 the community would jeopardize the health of others  
18 because of the family member's exposure to a  
19 communicable disease, regardless of whether the family  
20 member has actually contracted the communicable  
21 disease.



1 (b) Paid sick leave shall be provided based on a manner  
2 deemed suitable by the employer.

3 (c) When the use of paid sick leave is foreseeable, the  
4 employee shall make a good faith effort to provide prior notice  
5 of the need for the leave to the employer and shall make a  
6 reasonable effort to schedule the use of paid sick leave in a  
7 manner that does not unduly disrupt the operations of the  
8 employer.

9 § -4 Notice and posting. (a) An employer shall give  
10 its employees notice of the following:

- 11 (1) That employees are entitled to paid sick leave;
- 12 (2) The amount of paid sick leave granted pursuant to this  
13 chapter; and
- 14 (3) The terms of paid sick leave use as guaranteed under  
15 this chapter.

16 (b) An employer shall comply with this section by  
17 providing the information required in subsection (a) by:

- 18 (1) Individualized notice; or
- 19 (2) Displaying a poster in a conspicuous and accessible  
20 place in each establishment where its employees are  
21 employed.



1 (c) The director shall create and make posters available  
2 to employers, in all languages currently being used by the  
3 department for other employment posters, that contain the  
4 information required under subsection (a) for the employer's use  
5 in complying with this section.

6 § -5 Confidentiality and nondisclosure. An employer  
7 shall not require disclosure of details of an employee's medical  
8 condition as a condition of providing paid sick leave under this  
9 chapter. If an employer possesses health information or  
10 information pertaining to the details of a medical condition  
11 about an employee or employee's family member, the information  
12 shall be treated as confidential and shall not be disclosed  
13 except to the affected employee or with the permission of the  
14 affected employee.

15 § -6 Applicability. (a) Nothing in this chapter shall  
16 be construed to discourage or prohibit an employer from the  
17 adoption or retention of a paid sick leave policy more generous  
18 to the employee than the one required by this chapter. This  
19 chapter shall not apply to any employer who:



1 (1) Adopts or retains a paid sick leave policy that  
2 provides more paid sick leave than required by this  
3 chapter;

4 (2) Pays employees more than the minimum wage; or

5 (3) Employs less than employees.

6 (b) Nothing in this chapter shall be construed as  
7 diminishing the obligation of an employer to comply with any  
8 contract, collective bargaining agreement, employment benefit  
9 plan, or other agreement providing more generous paid sick leave  
10 to an employee than required herein.

11 (c) Nothing in this chapter shall be construed as  
12 diminishing the rights of public employees regarding paid sick  
13 leave or use of sick leave as provided by law.

14 (d) This chapter shall provide the minimum requirements of  
15 paid sick leave and shall not be construed to preempt, limit, or  
16 otherwise affect the applicability of any other law, rule,  
17 requirement, policy, or standard that provides for greater  
18 accrual or use by employees of sick leave, whether paid or  
19 unpaid, or that extends other protections to employees."

20 SECTION 3. If any provision of this Act, or the  
21 application thereof to any person or circumstance, is held



1 invalid, the invalidity does not affect other provisions or  
2 applications of the Act that can be given effect without the  
3 invalid provision or application, and to this end the provisions  
4 of this Act are severable.

5 SECTION 4. This Act does not affect rights and duties that  
6 matured, penalties that were incurred, and proceedings that were  
7 begun before its effective date.

8 SECTION 5. This Act shall take effect on July 1, 2050;  
9 provided that in the case of employees covered by a collective  
10 bargaining agreement in effect on July 1, 2017, this Act shall  
11 take effect on the date of termination, renewal, or amendment of  
12 the collective bargaining agreement then in effect.



**Report Title:**

Employment; Paid Sick Leave

**Description:**

Requires employers to provide a minimum amount of paid sick leave to employees to be used to care for themselves or a family member who is ill or needs medical care. (SB425 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

