

JAN 18 2019

A BILL FOR AN ACT

RELATING TO LABOR.

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

- 1 SECTION 1. The purpose of this Act is to establish the
2 right for minimum wage workers to accrue paid sick leave to:
- 3 (1) Ensure that these workers in the State can address
4 their own health needs and the health needs of their
5 families by requiring employers to provide a minimum
6 level of paid sick leave, including time for family
7 care;
- 8 (2) Diminish public and private health care costs in the
9 State by enabling workers to seek early and routine
10 medical care for themselves and their family members;
- 11 (3) Protect public health in the State by reducing the
12 risk of contagion;
- 13 (4) Promote economic security and stability of workers and
14 their families in the State;
- 15 (5) Protect these employees in the State from losing their
16 jobs when they use sick leave to care for themselves
17 or their families;



1 203(e), and additionally includes recipients of public benefits
2 who are engaged in work activity as a condition of receiving
3 public assistance, and public employees who are not subject to
4 the civil service laws of the State, a political subdivision, or
5 a public agency. The term "employee" shall not include sole
6 proprietors and independent contractors.

7 "Employer" has the same meaning as defined in the Federal
8 Fair Labor Standards Act, title 29 United States Code section
9 203(d).

10 "Family member" means:

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



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

3 "Labor organization" has the same meaning as defined in
4 section 378-1.

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

9 § -2 **Accrual of paid sick leave.** (a) All employees who
10 work in the State for more than six hundred eighty hours in a
11 year shall have the right to paid sick leave as provided in this
12 chapter.

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

17 (c) Employees who are exempt from overtime requirements
18 under the Federal Fair Labor Standards Act, title 29 United
19 States Code section 213(a)(1), shall be assumed to work forty
20 hours in each work week for purposes of paid sick leave accrual
21 unless the employee's normal work week is less than forty hours,



1 in which case paid sick leave shall accrue based upon the actual
2 hours in the employee's normal work week.

3 (d) Employees shall be entitled to use accrued paid sick
4 leave beginning on the seven hundred fiftieth hour following
5 commencement of employment. After the seven hundred fiftieth
6 hour of employment, employees may use paid sick leave as it is
7 accrued.

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

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

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



1 (h) Sick leave required by this chapter shall not be
2 payable for the period in which the employee is entitled to
3 temporary total disability or temporary partial disability
4 benefits under chapter 386 or temporary disability insurance
5 benefits under chapter 392.

6 § -3 Use of paid sick leave. (a) An employee may use
7 paid sick leave during absences from work due to:

- 8 (1) An employee's mental or physical illness, injury, or
9 health condition; an employee's need for medical
10 diagnosis, care, or treatment of a mental or physical
11 illness, injury, or health condition; or an employee's
12 need for preventive medical care;
- 13 (2) Care of a family member with a mental or physical
14 illness, injury, or health condition; care of a family
15 member who needs medical diagnosis, care, or treatment
16 of a mental or physical illness, injury, or health
17 condition; or care of a family member who needs
18 preventive medical care; and
- 19 (3) Closure of the employee's place of business by order
20 of a public official due to a public health emergency,
21 an employee's need to care for a child whose school or



1 place of care has been closed by order of a public
2 official due to a public health emergency, or care for
3 a family member when it has been determined by the
4 health authorities having jurisdiction or by a health
5 care professional that the family member's presence in
6 the community would jeopardize the health of others
7 because of the family member's exposure to a
8 communicable disease, regardless of whether the family
9 member has actually contracted the communicable
10 disease.

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

13 (c) When the use of paid sick leave is foreseeable, the
14 employee shall make a good faith effort to provide prior notice
15 of the need for the leave to the employer and shall make a
16 reasonable effort to schedule the use of paid sick leave in a
17 manner that does not unduly disrupt the operations of the
18 employer.

19 § -4 Notice and posting. (a) An employer shall give
20 its employees notice of the following:

21 (1) That employees are entitled to paid sick leave;



1 (2) The amount of paid sick leave granted pursuant to this
2 chapter; and

3 (3) The terms of paid sick leave use as guaranteed under
4 this chapter.

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

7 (1) Individualized notice; or

8 (2) Displaying a poster in a conspicuous and accessible
9 place in each establishment where its employees are
10 employed.

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

16 § -5 Confidentiality and nondisclosure. An employer
17 shall not require disclosure of details of an employee's medical
18 condition as a condition of providing paid sick leave under this
19 chapter. If an employer possesses health information or
20 information pertaining to the details of a medical condition
21 about an employee or employee's family member, the information



1 shall be treated as confidential and shall not be disclosed
2 except to the affected employee or with the permission of the
3 affected employee.

4 § -6 **Applicability.** (a) Nothing in this chapter shall
5 be construed to discourage or prohibit an employer from the
6 adoption or retention of a paid sick leave policy more generous
7 to the employee than the one required by this chapter. This
8 chapter shall not apply to any employer who:

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

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

13 (3) Employs less than employees.

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

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



1 (d) This chapter shall provide the minimum requirements of
2 paid sick leave and shall not be construed to preempt, limit, or
3 otherwise affect the applicability of any other law, rule,
4 requirement, policy, or standard that provides for greater
5 accrual or use by employees of sick leave, whether paid or
6 unpaid, or that extends other protections to employees.

7 (e) Where employers and employees are subject to a
8 collective bargaining agreement, this chapter may be waived by
9 the parties under the terms and conditions of the collective
10 bargaining agreement."

11 SECTION 3. If any provision of this Act, or the
12 application thereof to any person or circumstance, is held
13 invalid, the invalidity does not affect other provisions or
14 applications of the Act that can be given effect without the
15 invalid provision or application, and to this end the provisions
16 of this Act are severable.

17 SECTION 4. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date.

20 SECTION 5. This Act shall take effect on July 1, 2019;
21 provided that in the case of employees covered by a collective



1 bargaining agreement in effect on July 1, 2019, this Act shall
2 take effect on the date of termination, renewal, or amendment of
3 the collective bargaining agreement then in effect.

4

INTRODUCED BY:

[Handwritten Signature]
by request



S.B. NO. 784

Report Title:

Employment; Paid Sick Leave; Minimum Wage Workers

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.

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