

An Overview of the Paid Sick Leave Law

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LAW – COVERED EMPLOYERS

- **Sec. 1(4) "Employer" - means any person, firm, business, educational institution, nonprofit agency, corporation, limited liability company or other entity**
 - **that employs 50 or more individuals in the state in any one quarter in the previous year, which shall be determined on January first, annually**
 - **Based upon the wage information submitted to the Labor Commissioner by the employer pursuant to subsection (j) of section 31-225a of the general statutes.**

COVERED EMPLOYERS

- ❑ **50 or more in any 1 quarter – look at Quarterly Earnings Report (QER)**
- ❑ **QER filed by employer according to unemployment registration number**
 - **Employers with more than one registration will not be combined – each is a separate entity for purposes of this section**
 - **Not like FMLA – no joint or integrated employment**

LAW - EXEMPT EMPLOYERS

- **"Employer" does NOT include:**
 - **(A) Any business establishment classified in sector 31, 32 or 33 in the North American Industrial Classification System, or**
 - **(B) any nationally chartered organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, that provides all of the following services: Recreation, child care and education**

EXEMPT EMPLOYERS

Manufacturers

- ❑ **NAICS – refers to one facility as an “establishment” (generally a single physical location) and an entire company as an “enterprise”**
- ❑ **Each “establishment” should be assessed separately to determine if primary business activity falls within sector 31, 32 or 33**
 - **www.census.gov/naics**
- ❑ **Employer may have one facility subject to the law and other facilities that are not**

EXEMPT EMPLOYERS

Non-profits (YMCA/YWCA)

- Must be all of the below**
 - Nationally chartered, AND**
 - Provide:**
 - Recreation**
 - Child care, AND**
 - Education**

LAW – SERVICE WORKER

- **Sec. 1(7) "Service worker" - means an employee primarily engaged in an occupation with one of the broad or detailed occupation code numbers and titles, listed in the law, as defined by the federal Bureau of Labor Statistics Standard Occupational Classification system or any successor system**
 - **paid on an hourly basis, or**
 - **not exempt from minimum wage and overtime requirements**

SERVICE WORKER

- ❑ Website for classifications: www.bls.gov/soc
- ❑ If job title is not listed specifically, does not mean job not included – must read the broad and detailed occupations and descriptions
- ❑ If service worker does more than one job - use classification in which the service worker is primarily engaged
- ❑ If employee in listed classification, must also be:
 - paid on an hourly basis, or
 - not exempt from minimum wage and overtime requirements

SERVICE WORKER

□ Example: Bus Drivers 53-3020

53-3020 Bus Drivers

This broad occupation includes the following two detailed occupations:

53-3021 Bus Drivers, Transit and Intercity

53-3022 Bus Drivers, School or Special Client

53-3021 Bus Drivers, Transit and Intercity

Drive bus or motor coach, including regular route operations, charters, and private carriage. May assist passengers with baggage. May collect fares or tickets.

Illustrative examples: Motor Coach Bus Driver, Public Transit Bus Driver

53-3022 Bus Drivers, School or Special Client

Transport students or special clients, such as the elderly or persons with disabilities. Ensure adherence to safety rules. May assist passengers in boarding or exiting.

Illustrative examples: School Bus Operator, Special Education Bus Driver

SERVICE WORKER

- ❑ **Food Service Managers 11-9050**
- ❑ **Medical and Health Services Managers 11-9110**
- ❑ **Social Workers 21-1020**
- ❑ **Social and Human Service Assistants 21-1093**
- ❑ **Community Health Workers 21-1094**
- ❑ **Community and Social Service Specialists, All Other 21-1099**
- ❑ **Librarians 25-4020**
- ❑ **Pharmacists 29-1050**
- ❑ **Physician Assistants 29-1070**
- ❑ **Therapists 29-1120**
- ❑ **Registered Nurses 29-1140**
- ❑ **Nurse Anesthetists 29-1150; Nurse Midwives 29-1160**
- ❑ **Nurse Practitioners 29-1170**
- ❑ **Dental Hygienists 29-2020**
- ❑ **Emergency Medical Technicians and Paramedics 29-2040**
- ❑ **Health Practitioner Support Technologists and Technicians 29-2050**
- ❑ **Licensed Practical and Licensed Vocational Nurses 29-2060**
- ❑ **Home Health Aides 31-1011**
- ❑ **Nursing Aides, Orderlies, and Attendants 31-1012**
- ❑ **Psychiatric Aides 31-1013**
- ❑ **Dental Assistants 31-9091**
- ❑ **Medical Assistants 31-9092**
- ❑ **Security Guards 33-9032**
- ❑ **Crossing Guards 33-9091**

SERVICE WORKER

- ❑ **Supervisors of Food Preparation and Serving Workers 35-1010**
- ❑ **Cooks 35-2010**
- ❑ **Food Preparation Workers 35 -2020; Bartenders 35-3010**
- ❑ **Fast Food and Counter Workers 35-3020**
- ❑ **Waiters and Waitresses 35-3030**
- ❑ **Food Servers, Nonrestaurant 35-3040**
- ❑ **Dining Room and Cafeteria Attendants and Bartender Helpers 35-9010**
- ❑ **Dishwashers 35-9020**
- ❑ **Hosts and Hostesses, Restaurant, Lounge, and Coffee Shop 35-9030**
- ❑ **Miscellaneous Food Preparation and Serving Related Workers 35-9090**
- ❑ **Janitors and Cleaners, Except Maids and Housekeeping Cleaners 37-2011**
- ❑ **Building Cleaning Workers, All Other 37-2019**
- ❑ **Ushers, Lobby Attendants, and Ticket Takers 39-3030**
- ❑ **Barbers, Hairdressers, Hairstylists, and Cosmetologists 39-5010**
- ❑ **Baggage Porters, Bellhops, and Concierges 39-6010**
- ❑ **Child Care Workers 39-9010**
- ❑ **Personal Care Aides 39-9021**
- ❑ **First-Line Supervisors of Sales Workers 41-1010**
- ❑ **Cashiers 41-2011**
- ❑ **Counter and Rental Clerks 41-2021**
- ❑ **Retail Salespersons 41-2030**
- ❑ **Tellers 43-3070**
- ❑ **Hotel, Motel, and Resort Desk Clerks 43-4080**

SERVICE WORKER

- Receptionists and Information Clerks 43-4170
- Couriers and Messengers 43-5020
- Secretaries and Administrative Assistants 43-6010
- Computer Operators 43-9010
- Data Entry and Information Processing Workers 43-9020
- Desktop Publishers 43-9030
- Insurance Claims and Policy Processing Clerks 43-9040
- Mail Clerks and Mail Machine Operators, Except Postal Service 43-9050
- Office Clerks, General 43-9060
- Office Machine Operators, Except Computer 43-9070
- Proofreaders and Copy Markers 43-9080
- Statistical Assistants 43-9110
- Miscellaneous Office and Administrative Support Workers 43-9190
- Proofreaders and Copy Markers 43-9080
- Statistical Assistants 43-9110
- Miscellaneous Office and Administrative Support Workers 43-9190
- Bakers 51-3010
- Butchers and Other Meat, Poultry, and Fish Processing Workers 51-3020
- Miscellaneous Food Processing Workers 51-3090
- Ambulance Drivers and Attendants, Except Emergency Medical Technicians 53-3010
- Bus Drivers 53-3020
- Taxi Drivers and Chauffeurs 53-3040

LAW – EXEMPT EMPLOYEES

- ❑ **Sec. 1(7) "Service worker" does not include day or temporary workers**
- ❑ **Sec. 1(2) "Day or temporary worker" - means an individual who performs work for another on**
 - **(A) a per diem basis, or**
 - **(B) an occasional or irregular basis for only the time required to complete such work, whether such individual is paid by the person for whom such work is performed or by an employment agency or temporary help service**

EXEMPT EMPLOYEES

- ❑ **Per diem** - is the individual being treated and acting like a per diem?
 - Can s/he accept or refuse work at will?
 - May be longer term assignment

- ❑ **Temporary worker** – will look at facts and circumstances of each case
 - An occasional or irregular basis for only the time required to complete such work
 - What is the assignment, length, duties, etc?

LAW - ACCRUAL

- **Sec. 2(a) Each employer shall provide paid sick leave annually to each of such employer's service workers in the state. Such paid sick leave shall accrue:**
 - **(1) beginning January 1, 2012, or for a service worker hired after said date, beginning on the service worker's date of employment,**
 - **(2) at a rate of one hour of paid sick leave for each forty hours worked by a service worker, and**
 - **(3) in one-hour increments up to a maximum of 40 hours per calendar year**

ACCRUAL - START

- ❑ **Calendar year basis**
- ❑ **Two accrual dates:**
 - **currently employed service workers begin on 1/1/12**
 - **services workers hired after 1/1/12 begin upon hire date**

ACCRUAL – HOW MUCH

- **1 hour per every 40 hours worked**
 - Includes part-time service workers
 - Must be actual hours worked – not sick, vacation or other leave
 - 1 hour increments – accrued and used regardless of time-keeping system
 - Max out at 40 hours per calendar year

LAW – CARRY OVER

- **Sec. 2(a) cont'd:**

- Each service worker shall be entitled to carry over up to 40 unused accrued hours of paid sick leave from the current calendar year to the following calendar year**

- **but no service worker shall be entitled to use more than the maximum number of accrued hours, as described in subdivision (3) of this subsection, in any year**

CARRY OVER

- ❑ **Calendar year basis**
- ❑ **Carry over – only up to 40 hours each calendar year no matter how much service worker has accumulated**
- ❑ **“shall be entitled” – may offer service worker the option of accepting pay out in lieu of carry over as long as voluntary**
- ❑ **Can only use 40 hours per calendar year, no matter how many hours carried over and accrued**

LAW - USAGE

- **Sec. 2(b) A service worker shall be entitled to the use of accrued paid sick leave upon:**
 - **the completion of the service worker's 680th hour of employment from 1/1/12, if the service worker was hired prior to 1/1/12,**
 - **or if hired after 1/1/12, upon the completion of the service worker's 680th hour of employment from the date of hire, unless the employer agrees to an earlier date.**

- **A service worker shall not be entitled to the use of accrued paid sick leave if such service worker did not work an average of 10 or more hours a week for the employer in the most recent complete calendar quarter.**

USAGE

- ❑ **Cannot use accrued paid sick leave until service worker has worked 680 hours**
 - **actual hours worked**
 - ❑ not sick, vacation or other leave
 - **one time requirement**

- ❑ **Begin counting hours worked:**
 - **currently employed service workers begin on 1/1/12**
 - **services workers hired after 1/1/12 begin upon hire date**
 - **or any earlier date to which the employer agrees**

- ❑ **Once 680 hours worked, can only use accrued time if worked an AVERAGE of 10 hours per week in most recent completed calendar quarter**

LAW – BREAK IN SERVICE

- **Sec. 4(c) - Any termination of a service worker's employment by an employer, whether voluntary or involuntary, shall be construed as a break in service. Should any service worker subsequently be rehired by the employer following a break in service, the service worker shall**
 - **(1) begin to accrue sick leave in accordance with section 2 of this act, and**
 - **(2) shall not be entitled to any unused hours of paid sick leave that had been accrued prior to the service worker's break in service unless agreed to by the employer.**

BREAK IN SERVICE

- ❑ Break in service – separation from employment
- ❑ If the service worker returns to work s/he:
 - loses all paid sick leave accrued prior to the break
 - retains the hours worked towards the 680 hours
 - Example
 - ❑ Service worker worked for 7 months prior to a break in service
 - ❑ Service worker accrued 12 hours of paid sick leave and worked for the employer for 500 hours.
 - ❑ Service worker returns to work after the break in service with no accrued paid sick leave and 500 hours of work towards the 680 hour requirement
- ❑ Must look back at most recent calendar quarter – service worker must have worked an average of 10 hours per week

LAW - COMPLIANCE

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

COMPLIANCE

- ❑ **If employer has other paid leave:**
 - **Accrued at rate \geq this law, AND**
 - **MAY be used for same purposes**
 - ❑ **Sick service worker, spouse or child**
 - ❑ **Family violence / sexual assault**

LAW – PAY RATE

- **Sec. 2(d) Each employer shall pay each service worker for paid sick leave at a pay rate equal to the greater of either:**
 - **(1) the normal hourly wage for that service worker, or**
 - **(2) the minimum fair wage rate under section 31-58 of the general statutes in effect for the pay period during which the employee used paid sick leave.**

 - **For any service worker whose hourly wage varies depending on the work performed by the service worker, the "normal hourly wage" shall mean the average hourly wage of the service worker in the pay period prior to the one in which the service worker used paid sick leave**

PAY RATE

- ❑ **Service workers who earn tip credit – because hourly rate is lower than minimum wage, would be paid minimum wage for any paid sick leave hours used**
- ❑ **Overtime and commissions not part of “normal hourly wage”**
- ❑ **If hourly wage varies – average of pay period prior**

LAW – SHIFT CHANGE

- **Sec. 2(e) - Notwithstanding the provisions of this section and sections 3 to 6, inclusive, of this act and upon the mutual consent of the service worker and employer, a service worker who chooses to work additional hours or shifts during the same or following pay period, in lieu of hours or shifts missed, shall not use accrued paid sick leave.**

SHIFT CHANGE

- ❑ **Must be mutual – employer cannot require service worker to pick up extra shifts to cover missed work**

LAW – REASONS FOR LEAVE

- ❑ **Sec. 3(a) An employer shall permit a service worker to use the paid sick leave accrued pursuant to section 2 of this act:**
- ❑ **(1) For**
 - **(A) a service worker's illness, injury or health condition,**
 - **(B) the medical diagnosis, care or treatment of a service worker's mental illness or physical illness, injury or health condition, or**
 - **(C) preventative medical care for a service worker**

LAW – REASONS FOR LEAVE

- **Sec. 3(a)(2) For**
 - **(A) a service worker's child's or spouse's illness, injury or health condition,**
 - **(B) the medical diagnosis, care or treatment of a service worker's child's or spouse's mental or physical illness, injury or health condition, or**
 - **(C) preventative medical care for a child or spouse of a service worker; and**

LAW - DEFINITIONS

- ❑ **Sec. 1(1) "Child" - means a biological, adopted or foster child, stepchild, legal ward of a service worker, or a child of a service worker standing in loco parentis, who is**
 - (A) under eighteen years of age; or
 - (B) eighteen years of age or older and incapable of self-care because of a mental or physical disability
- ❑ **Same definition as FMLA**
- ❑ **Sec. 1(9) "Spouse" - means a husband or wife**

LAW – REASONS FOR LEAVE

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

FAMILY VIOLENCE / ASSAULT

- ❑ Only applies to the service worker and not a child or spouse

- ❑ Similar to Conn Gen Stat § 31-51ss
 - 12 days of unpaid leave for the same reasons covered under the Paid Sick Leave law
 - BUT, the 12 days are **in addition to** the Paid Sick Leave

LAW- EMPLOYEE NOTICE

- ❑ **Sec. 3(b) - If a service worker's need to use paid sick leave is foreseeable, an employer may require advance notice, not to exceed 7 days prior to the date such leave is to begin, of the intention to use such leave.**
- ❑ **If a service worker's need for such leave is not foreseeable, an employer may require a service worker to give notice of such intention as soon as practicable.**
- ❑ **For paid sick leave of 3 or more consecutive days, an employer may require reasonable documentation that such leave is being taken for the purpose permitted under subsection (a) of this section.**

LAW- DOCUMENTATION

Sec. 3(b) cont'd

- If such leave is permitted under subdivision (1) or (2) of subsection (a) of this section, documentation signed by a health care provider who is treating the service worker or the service worker's child or spouse indicating the need for the number of days of such leave shall be considered reasonable documentation.
- If such leave is permitted under subdivision (3) of subsection (a) of this section, a court record or documentation signed by a service worker or volunteer working for a victim services organization, an attorney, a police officer or other counselor involved with the service worker shall be considered reasonable documentation.

DOCUMENTATION

- ❑ **May only request reasonable documentation for 3 or more consecutive work day absences**
 - **Does not need to be full days**
 - **A scheduled work week of Monday, Wednesday, Friday constitutes 3 or more consecutive days**
 - **Documentation must indicate the need for the number of days of such leave**
- ❑ **There is no provision for clarification of the health care provider's note or for a second opinion**

LAW – CBA

- **Sec. 4(a) - Nothing in sections 2 to 6, inclusive, of this act shall be construed to ...**
 - **(2) diminish any rights provided to any employee or service worker under a collective bargaining agreement, or**
 - **(3) preempt or override the terms of any collective bargaining agreement effective prior to January 1, 2012.**

CBA

- **A collective bargaining agreement (CBA) that is in effect prior to 1/1/12 that provides for less paid sick leave than required under the law shall remain in effect until the next negotiated CBA after 1/1/12**
 - **OK even if the CBA does not provide for any paid sick leave**

MISCELLANEOUS

- ❑ **Nothing in this law requires an employer to provide paid sick leave for a service worker's leave for any purpose other than those described in this law.**
- ❑ **Nothing in this law prohibits an employer from taking disciplinary action against a service worker who uses paid sick leave for purposes other than those described in this section.**
- ❑ **Nothing in this law prohibits an employer who provides more paid sick leave than is required under the act from limiting the amount of such leave a service worker may use for other purposes.**

MISCELLANEOUS - PAY OUT

- ❑ Unless an employee policy or collective bargaining agreement provides for the payment of accrued fringe benefits upon termination, no service worker shall be entitled to payment of unused accrued sick leave under this section upon termination of employment.
- ❑ DOL will look to the employer's policy

MISCELLANEOUS - DONATION

- ❑ **An employer may voluntarily establish a paid sick leave donation policy**
 - **Any service worker donating paid sick leave no longer has that donated paid sick leave available for his or her own use**

LAW - RETALIATION

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

LAW – DEFINITION

- **Sec. 1(6) "Retaliatory personnel action" - means any termination, suspension, constructive discharge, demotion, unfavorable reassignment, refusal to promote, disciplinary action or other adverse employment action taken by an employer against an employee or a service worker**

RETALIATION AGAINST SERVICE WORKER

- **No employer shall take retaliatory personnel action or discriminate against an employee because the employee**
 - **requests or uses paid sick leave either in accordance with sections 2 and 3 of this act**
 - **This provision is limited to service workers who are alleging retaliation or discrimination because of the request for or the use of paid sick leave**

LAW – DEFINITION

- **Sec. 1(3) "Employee" - means an individual engaged in service to an employer in the business of the employer**

RETALIATION AGAINST EMPLOYEE

- **No employer shall take retaliatory personnel action or discriminate against an employee because the employee**
 - **requests or uses paid sick leave in accordance with the employer's own paid sick leave policy**
 - **ANY EMPLOYEE (not just service workers)**
 - **DOL will enforce whatever is in the employer's policy**

RETALIATION FOR FILING A COMPLAINT

- **No employer shall take retaliatory personnel action or discriminate against an employee because the employee**
 - **files a complaint with the Labor Commissioner alleging the employer's violation of sections 2 to 6, inclusive, of this act.**
 - **Taking an adverse personnel action against an employee because the employee has filed a complaint with the Labor Commissioner may constitute retaliation for exercising his or her rights under this law**

LAW- CBA

- **Sec. 5(b) - The Labor Commissioner shall advise any employee who**
 - **(1) is covered by a collective bargaining agreement that provides for paid sick days, and**
 - **(2) files a complaint pursuant to subsection (a) of this section, of his or her right to pursue a grievance with his or her collective bargaining agent.**

LAW – COMPLAINT PROCESS

Sec. 5(c)

- ❑ Any employee aggrieved by a violation of the provisions of sections 2 to 6, inclusive, of this act may file a complaint with the Labor Commissioner. Upon receipt of any such complaint, said commissioner may hold a hearing.
- ❑ After the hearing, any employer who is found by the Labor Commissioner, by a preponderance of the evidence, to have violated the provisions of subsection (a) of this section shall be liable to the Labor Department for a civil penalty of \$500 for each violation.
- ❑ Any employer who is found by the Labor Commissioner, by a preponderance of the evidence, to have violated the provisions of sections 2 to 4, inclusive, or section 6 of this act shall be liable to the Labor Department for a civil penalty of up to \$100 for each violation.

LAW – COMPLAINT PROCESS

Sec. 5(c) cont'd:

- The Labor Commissioner may award the employee all appropriate relief, including
 - the payment for used paid sick leave,
 - rehiring or reinstatement to the employee's previous job,
 - payment of back wages and reestablishment of employee benefits to which the employee otherwise would have been eligible if the employee had not been subject to such retaliatory personnel action or discriminated against.

- Any party aggrieved by the decision of the commissioner may appeal the decision to the Superior Court in accordance with the provisions of chapter 54 of the general statutes.

LAW – NOTICE TO EMPLOYEES

- **Sec. 6 - Each employer subject to the provisions of section 2 of this act shall, at the time of hiring, provide notice to each service worker**
 - **(1) of the entitlement to sick leave for service workers, the amount of sick leave provided to service workers and the terms under which sick leave may be used,**
 - **(2) that retaliation by the employer against the service worker for requesting or using sick leave for which the service worker is eligible is prohibited, and**
 - **(3) that the service worker has a right to file a complaint with the Labor Commissioner for any violation of this section and of sections 2 to 5, inclusive, of this act.**

LAW - POSTER

- Sec. 6 - Employers may comply with the provisions of this section by displaying a poster in a conspicuous place, accessible to service workers, at the employer's place of business that contains the information required by this section in both English and Spanish.**
 - DOL will have the posters available on its website**

CONTACT INFORMATION

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