

No. _____

LEGISLATIVE REFERENCE BUREAU

AN ACT

Providing for paid sick leave for certain employees, for duties of the Department of Labor and Industry and for enforcement; and imposing a civil penalty.

INTRODUCED _____ **20** _____

By _____ **District NO.** _____

By _____ **District NO.** _____

By _____ **District NO.** _____

By _____ **District NO.** _____

See next page for additional co-sponsors.

Prior Session _____

Referred to Committee on	
Date _____	20 _____
Reported _____	20 _____
As Committed-Amended	
Recommendation	

By Hon. _____	

AN ACT

1 Providing for paid sick leave for certain employees, for duties
2 of the Department of Labor and Industry and for enforcement;
3 and imposing a civil penalty.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Healthy
8 Families, Healthy Workplaces Act.

9 Section 2. Declaration of policy.

10 The General Assembly finds and declares as follows:

11 (1) Nearly every worker in this Commonwealth will at
12 some time during the year need temporary time off from work
13 to take care of the worker's own health needs or the health
14 needs of family members or to deal with safety issues arising
15 from domestic or sexual violence.

16 (2) There are many workers in this Commonwealth who are
17 not entitled to any paid sick leave to care for their own
18 health needs or the health needs of family members.

1 (3) Low-income workers are significantly less likely to
2 have paid sick leave than other members of the work force.

3 (4) Providing workers time off to attend to their own
4 health care and the health care of family members will ensure
5 a healthier and more productive work force in this
6 Commonwealth.

7 (5) Paid sick leave will have a positive effect on
8 public health in this Commonwealth by allowing sick workers
9 the occasional option of staying home to care for themselves
10 when ill, lessening their recovery time and reducing the
11 likelihood of spreading illness to other members of the work
12 force.

13 (6) Paid sick leave will allow parents to provide
14 personal care for their sick children. Parental care makes
15 children's recovery faster, prevents more serious illnesses
16 and improves children's overall mental and physical health.

17 (7) Providing minimal paid sick leave is affordable for
18 employers and good for business.

19 (8) Employers who provide paid sick leave have greater
20 employee retention and avoid the problem of workers coming to
21 work sick. Studies have shown that costs from on-the-job
22 productivity losses resulting from sick workers exceed the
23 cost of absenteeism among employees.

24 Section 3. Definitions.

25 The following words and phrases when used in this act shall
26 have the meanings given to them in this section unless the
27 context clearly indicates otherwise:

28 "Child." A biological, adopted or foster child, stepchild or
29 legal ward or a child, to whom the employee stands in loco
30 parentis, who is under 18 years of age or 18 years of age or

1 older and incapable of self-care or earning a living due to a
2 disability or incapacity that is either physical or mental.

3 "Department." The Department of Labor and Industry of the
4 Commonwealth.

5 "Domestic violence." As the term "abuse" is defined in 23
6 Pa.C.S. § 6102 (relating to definitions).

7 "Employee." As the term "employee" is defined in section 3 of
8 the act of January 17, 1968 (P.L.11, No.5), known as The Minimum
9 Wage Act of 1968.

10 "Employer." As defined in section 3 of The Minimum Wage Act
11 of 1968.

12 "Extended family member." A relative within the third degree
13 by blood or marriage.

14 "Grandparent." A parent of a parent.

15 "Health care provider." As defined in section 109 of the act
16 of June 2, 1915 (P.L.736, No.338), known as the Workers'
17 Compensation Act.

18 "Paid sick leave." Leave that is compensated at the same
19 hourly rate as the employee earns from the employee's employment
20 and is provided by an employer to an employee for the purposes
21 described in section 4.

22 "Parent." A biological or foster parent, stepparent or
23 adoptive parent or legal guardian of an employee or an
24 employer's spouse or a person who stood in loco parentis when
25 the employee was a minor.

26 "Retaliatory personnel action." The discharge, suspension or
27 demotion by an employer of an employee or any other adverse
28 employment action taken by an employer against an employee in
29 the terms and conditions of employment.

30 "Sexual assault." As the offense is defined in 18 Pa.C.S. §

1 3124.1 (relating to sexual assault).

2 "Spouse." A person to whom the employee is legally married
3 under the laws of this Commonwealth.

4 "Stalking." As the offense is defined in 18 Pa.C.S. § 2709.1
5 (relating to stalking).

6 Section 4. Accrual of paid sick leave.

7 (a) General rule.--Except as provided for in subsection (b),
8 employers shall provide a minimum of one hour of paid sick leave
9 for every 40 hours worked by an employee. Employers are not
10 required to provide more than 52 hours of sick leave for an
11 employee in a calendar year.

12 (b) Exception.--Employers that employ fewer than 10
13 individuals shall provide a minimum of one hour of paid sick
14 leave for every 80 hours worked by an employee. Employers under
15 this subsection are not required to provide more than 26 hours
16 of paid sick leave in a calendar year.

17 (c) Accrual of leave.--Paid sick leave shall accrue in hour
18 unit increments. Paid sick leave shall begin to accrue at the
19 date of hire as indicated in the employee's personnel file.

20 (d) Use of leave.--Employees shall be entitled to use
21 accrued paid sick leave beginning 90 business days following the
22 employee's date of hire. After 90 business days of employment,
23 employees may use sick leave as it is accrued.

24 (e) Carry forward of leave.--No more than 40 hours of paid
25 sick leave of an employee may carry forward from one calendar
26 year to the next.

27 (f) Compliance.--An employer with a paid leave policy who
28 makes available an amount of paid leave that may be used for the
29 same purposes and under the same conditions as paid sick leave
30 under this section shall be deemed to be in compliance with this

1 section.

2 Section 5. Use of paid sick leave.

3 (a) General rule.--Paid sick leave shall be provided to an
4 employee by an employer for all of the following:

5 (1) Absence necessary due to an employee's:

6 (i) mental or physical illness, injury or health
7 condition;

8 (ii) need for medical diagnosis, care or treatment
9 of a mental or physical illness, injury or health
10 condition; or

11 (iii) need for preventive medical care.

12 (2) Care of a spouse, child, parent, grandparent or
13 extended family member, or any other individual related by
14 blood or affinity whose close relationship with the employee
15 is the equivalent of a family relationship, who needs the
16 following:

17 (i) medical diagnosis, care or treatment of a mental
18 or physical illness, injury or health condition; or

19 (ii) preventive medical care.

20 (3) Absence necessary due to domestic violence or sexual
21 assault, provided the leave is to:

22 (i) Seek medical attention for the employee or
23 employee's child, spouse, parent, grandparent or extended
24 family member to recover from physical injury or
25 disability or psychological injury or disability caused
26 by domestic violence or sexual assault.

27 (ii) Obtain services from a victims' services
28 organization.

29 (iii) Obtain psychological or other counseling.

30 (iv) Seek relocation due to the domestic violence,

1 sexual assault or stalking.

2 (v) Take legal action, including preparing for or
3 participating in any civil or criminal legal proceeding
4 related to or resulting from the domestic violence or
5 sexual assault.

6 (b) Notice.--An employer may require reasonable notice of
7 the need for paid sick leave. Where the need for the leave is
8 foreseeable, an employer may require advance notice of the
9 intention to take leave, but in no case shall require more than
10 seven days' notice. Where the need is not foreseeable, an
11 employer may require an employee to give notice of the need for
12 leave as soon as practicable.

13 (c) Documentation.--For leave of more than three consecutive
14 days, an employer may require reasonable documentation that the
15 paid leave is covered under subsection (a). Under subsection (a)
16 (1) or (2), documentation signed by a health care professional
17 indicating the need for the number of paid sick leave days shall
18 be considered reasonable documentation. Under subsection (a)(3),
19 a court record or documentation signed by an employee or
20 volunteer working for a victims' services organization, an
21 attorney, police officer or other antiviolence counselor shall
22 be considered reasonable documentation.

23 Section 6. Retaliation prohibited.

24 An employer may not take retaliatory personnel action or
25 discriminate against an employee because the employee has
26 requested paid sick leave under this act or taken paid sick
27 leave guaranteed by this act or made a complaint or filed an
28 action to enforce an employee's right to paid sick leave under
29 this act.

30 Section 7. Notice and posting.

1 (a) Notice.--An employer shall give notice of all of the
2 following to an employee entitled to paid sick leave:

3 (1) The amount of paid sick leave and the terms of its
4 use provided for under this act.

5 (2) That retaliation against employees who request or
6 use paid sick leave is prohibited.

7 (3) That an employee has the right to file a complaint
8 or bring a civil action if sick leave as required under this
9 act is denied by the employer or the employee is retaliated
10 against for requesting or taking paid sick leave.

11 (b) Compliance.--

12 (1) An employer may comply with this section by
13 supplying each employee with a notice that contains the
14 information required under subsection (a).

15 (2) Employers may comply with this section by displaying
16 a poster in a conspicuous and accessible place in each
17 establishment where employees are employed that contains the
18 information required under subsection (a).

19 (c) Department poster.--The department shall create posters
20 and make them available to employers to assist employers in
21 complying with this act. The posters shall contain the
22 information required under subsection (a).

23 Section 8. Enforcement.

24 (a) Failure to provide leave.--

25 (1) A person aggrieved by an employer's failure to
26 provide paid sick leave as required under this act may bring
27 a civil action in a court of competent jurisdiction against
28 an employer violating this act.

29 (2) Upon prevailing in an action brought under this
30 subsection, an aggrieved person shall recover the full amount

1 of any unpaid sick leave plus any actual damages suffered as
2 the result of the employer's failure to provide paid sick
3 leave and shall also be entitled to reasonable attorney fees.

4 (3) Upon prevailing in an action brought under this
5 subsection, an aggrieved person shall be entitled to legal or
6 equitable relief as may be appropriate to remedy the
7 violation, including, without limitation, reinstatement in
8 employment and injunctive relief.

9 (b) Retaliatory personnel action.--An employee subjected to
10 retaliatory personnel action in violation of this act may
11 institute a civil action in a court of competent jurisdiction
12 and shall be entitled to recover damages and any other legal or
13 equitable relief as may be appropriate. An employee who prevails
14 in an action under this subsection shall be entitled to
15 reasonable attorney fees.

16 (c) Complaint.--A person aggrieved by either a retaliatory
17 personnel action in violation of this act or by an employer's
18 failure to provide paid sick leave as required by this act may
19 file a complaint with the Office of Attorney General. The filing
20 of a complaint with the Office of Attorney General does not
21 preclude the filing of a civil action under subsection (a) or
22 (b).

23 (d) Action of Attorney General.--The Attorney General may
24 bring a civil action to enforce this act. The Attorney General
25 may seek injunctive relief. In addition to injunctive relief, or
26 in lieu of injunctive relief, for any employer or other person
27 found to have willfully violated this section, the Attorney
28 General may seek to impose a fine of \$1,000 per violation.

29 (e) Class action.--Actions brought under this section may be
30 brought as a class action pursuant to the laws of this

1 Commonwealth.

2 Section 9. Confidentiality and nondisclosure.

3 If an employer possesses health information or information
4 pertaining to domestic violence about an employee or employee's
5 child, parent, spouse, extended family member or other
6 individual described in section 5, the information shall be
7 treated as confidential and not disclosed except under the
8 Health Insurance Portability and Accountability Act of 1996
9 (Public Law 104-191, 110 Stat. 1936).

10 Section 10. Construction.

11 The following apply:

12 (1) Nothing in this act may be construed to discourage
13 or prohibit an employer from the adoption or retention of a
14 paid leave policy more generous than the one required under
15 this act.

16 (2) Nothing in this act may be construed as diminishing
17 the obligation of an employer to comply with any contract,
18 collective bargaining agreement, employment benefit plan or
19 other agreement providing more generous leave to an employee
20 than required in this act.

21 (3) Nothing in this act may be construed as diminishing
22 the rights of public employees regarding paid sick leave or
23 use of sick leave as provided in the employees' employment
24 contract or collective bargaining agreement.

25 (4) Nothing in this act may be construed to conflict
26 with the act of January 17, 1968 (P.L.11, No.5) known as The
27 Minimum Wage Act of 1968.

28 Section 11. Regulations.

29 The department shall promulgate regulations to carry out the
30 provisions of this act.

1 Section 12. Effective date.

2 This act shall take effect as follows:

3 (1) This section and section 11 shall take effect
4 immediately.

5 (2) The remainder of this act shall take effect in 180
6 days.