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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2461

02/27/2014 Authored by Lesch, Winkler, Anzelc, Davnie and Melin

The bill was read for the first time and referred to the Committee on Labor, Workplace and Regulated Industries

1.1 A bill for an act
1.2 relating to employment; providing for earned sick and safe time; proposing
1.3 coding for new law in Minnesota Statutes, chapter 181; repealing Minnesota
1.4 Statutes 2013 Supplement, section 181.9413.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. [181.9441] EARNED SICK AND SAFE TIME.

1.7 Subdivision 1. Definitions. (a) For the purposes of this section, the following terms
1.8 have the meanings given.

1.9 (b) "Child" means a minor or adult: biological child, adopted child, foster child,
1.10 grandchild, stepchild, legal ward, or a person to whom the covered employee stands in
1.11 loco parentis.

1.12 (c) "Covered employee" means an employee who has been employed for not less
1.13 than 30 days by the employer from whom earned sick and safe time is requested.

1.14 (d) "Domestic abuse" has the meaning given in section 518B.01.

1.15 (e) "Employee" has the meaning given in section 177.23, subdivision 7, except that
1.16 for the purpose of this section, employee includes any individual employed in a bona fide
1.17 executive, administrative, or professional capacity, or a salesperson who conducts no more
1.18 than 20 percent of sales on the premises of the employer, and includes recipients of public
1.19 benefits who are engaged in work activity as a condition of receiving public assistance.

1.20 (f) "Employer" means any individual, partnership, association, corporation, business,
1.21 trust, the state and any political subdivision of the state, or any person or group of persons
1.22 acting directly or indirectly in the interest of an employer in relation to an employee.

2.1 (g) "Extended family member" means any individual related by blood or affinity
2.2 whose close association with the covered employee is the equivalent of a family
2.3 relationship.

2.4 (h) "Grandparent" means a parent of a parent.

2.5 (i) "Earned sick and safe time" means leave that is compensated at the same hourly
2.6 rate as the covered employee earns from employment and is provided by an employer to a
2.7 covered employee for the purposes described in subdivision 3.

2.8 (j) "Parent" means:

2.9 (1) a biological parent, foster parent, stepparent, adoptive parent, or legal guardian
2.10 of a covered employee or a covered employee's spouse; or

2.11 (2) a person who stood in loco parentis when the covered employee or covered
2.12 employee's spouse was a minor child.

2.13 (k) "Sexual assault" means an act that constitutes a violation under sections 609.342
2.14 to 609.3453 or 609.352.

2.15 (l) "Sibling" means a biological, foster, adoptive, or step-sibling.

2.16 (m) "Stalking" has the meaning given in section 609.749.

2.17 (n) "Spouse" means a person to whom the covered employee is legally married
2.18 under the laws of Minnesota.

2.19 Subd. 2. **Accrual of earned sick and safe time.** (a) A covered employee shall accrue
2.20 a minimum of one hour of earned sick and safe time for every 30 hours worked. A covered
2.21 employee may not accrue more than 72 hours of earned sick and safe time in a calendar
2.22 year unless the employer agrees to a higher amount, except as provided in paragraph (b).

2.23 (b) Covered employees of an employer that employs fewer than 21 employees may
2.24 not accrue more than 40 hours of earned sick and safe time in a calendar year unless
2.25 the employer agrees to a higher amount.

2.26 (c) Covered employees who are exempt from overtime requirements under United
2.27 States Code, title 29, section 213(a)(1), are deemed to work 40 hours in each work week
2.28 for purposes of accruing earned sick and safe time, except that a covered employee whose
2.29 normal work week is less than 40 hours will accrue earned sick and safe time based upon
2.30 the normal work week.

2.31 (d) Earned sick and safe time under this section begins to accrue at the
2.32 commencement of employment of the covered employee.

2.33 (e) Covered employees shall be entitled to use accrued earned sick and safe time
2.34 beginning 90 calendar days following commencement of their employment. After 90
2.35 calendar days of employment, covered employees may use earned sick and safe time
2.36 as it is accrued.

3.1 (f) Earned sick and safe time shall be carried over to the following calendar year.

3.2 (g) An employer complies with this section if the employer has a sick and safe time
3.3 policy that makes available an amount of sick and safe time at least equal to and which
3.4 may be used for the same purposes and under the same conditions as earned sick and safe
3.5 time under this section.

3.6 (h) An employer may adopt or retain sick and safe time policies that are more
3.7 generous to a covered employee than the requirements under this section.

3.8 Subd. 3. Use of earned sick and safe time. (a) Earned sick and safe time must be
3.9 provided to a covered employee by an employer for:

3.10 (1) a covered employee's:

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

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

3.14 (iii) need for preventive medical or health care;

3.15 (2) care of a spouse, child, parent, grandparent, sibling, or extended family member:

3.16 (i) with a mental or physical illness, injury, or health condition;

3.17 (ii) who needs medical diagnosis, care, or treatment of a mental or physical illness,
3.18 injury, or health condition; or

3.19 (iii) who needs preventive medical or health care;

3.20 (3) absence due to domestic abuse, sexual assault, or stalking of the covered

3.21 employee or covered employee's child, spouse, parent, grandparent, sibling, or extended
3.22 family member, provided the absence is to:

3.23 (i) seek medical attention related to physical or psychological injury or disability
3.24 caused by domestic abuse, sexual assault, or stalking;

3.25 (ii) obtain services from a victim services organization;

3.26 (iii) obtain psychological or other counseling;

3.27 (iv) seek relocation due to domestic abuse, sexual assault, or stalking; or

3.28 (v) take legal action, including preparing for or participating in any civil or criminal
3.29 legal proceeding related to or resulting from domestic abuse, sexual assault, or stalking; and

3.30 (4) closure of the covered employee's place of business by order of a public official
3.31 due to a public emergency, or a covered employee's need to care for a child whose school
3.32 or place of care has been closed by order of a public official due to a public emergency.

3.33 (b) An employer may require reasonable notice of the need for earned sick and safe
3.34 time. If the need for the leave is foreseeable, an employer may require advance notice of
3.35 the intention to use earned sick and safe time, but in no case shall require more than seven

4.1 days' advance notice. If the need is not foreseeable, an employer may require a covered
4.2 employee to give notice of the need for earned sick and safe time as soon as practicable.

4.3 (c) For earned sick and safe time of more than three consecutive days, an employer
4.4 may require reasonable documentation that the earned sick and safe time is covered by
4.5 paragraph (a). For earned sick and safe time under paragraph (a), clause (1) or (2),
4.6 reasonable documentation shall include a signed statement by a health care professional
4.7 indicating the need for earned sick and safe time. For earned sick and safe time under
4.8 paragraph (a), clause (3), a court record or documentation signed by an employee or
4.9 volunteer working for a victims services organization, an attorney, a police officer, or other
4.10 anti-violence counselor shall be considered reasonable documentation.

4.11 (d) An employer may not require, as a condition of a covered employee's using earned
4.12 sick and safe time, that the covered employee search for or find a replacement worker to
4.13 cover the hours during which the covered employee is using earned sick and safe time.

4.14 (e) Accrued earned sick and safe time may be used in the smaller of hourly
4.15 increments or the smallest increment that the employer's payroll system uses to account
4.16 for absences or use of other time.

4.17 Subd. 4. **Retaliation prohibited.** An employer shall not retaliate against a covered
4.18 employee because the covered employee has requested earned sick and safe time, used
4.19 earned sick and safe time, or made a complaint or filed an action to enforce a right to
4.20 earned sick and safe time under this section.

4.21 Subd. 5. **Notice and posting.** (a) Employers shall give notice that covered
4.22 employees are entitled to earned sick and safe time, the amount of earned sick and safe
4.23 time, and the terms of its use under this section, that retaliation against covered employees
4.24 who request or use earned sick and safe time is prohibited, and that each covered employee
4.25 has the right to file a complaint or bring a civil action if earned sick and safe time is
4.26 denied by the employer or the covered employee is retaliated against for requesting or
4.27 using earned sick and safe time.

4.28 (b) Employers may comply with this section by supplying covered employees
4.29 with a notice in English and other appropriate languages that contains the information
4.30 required in paragraph (a).

4.31 (c) Employers may comply with this section by displaying a poster in a conspicuous
4.32 and accessible place in each establishment where covered employees are employed which
4.33 contains all information required under paragraph (a).

4.34 (d) The commissioner shall create and make available to employers for their use
4.35 in complying with this subdivision posters that contain the information required under
4.36 paragraph (a).

5.1 Subd. 6. **Rulemaking; investigations.** (a) The commissioner shall adopt rules for
5.2 implementing this section including, but not limited to, requirements for documentation
5.3 by employers demonstrating compliance with this section.

5.4 (b) The commissioner shall have enforcement authority and powers as provided
5.5 under section 175.20 to administer this section.

5.6 Subd. 7. **Remedies.** (a) Any person aggrieved by a failure of an employer to provide
5.7 earned sick and safe time as required by this section may bring an action in district
5.8 court against the employer. A prevailing plaintiff in an action under this paragraph is
5.9 entitled to recover the full amount of accrued earned sick and safe time, plus any actual
5.10 damages suffered as a result of the employer's failure to provide earned sick and safe
5.11 time, and reasonable attorney fees. A prevailing plaintiff is also entitled to any other
5.12 appropriate legal or equitable relief as determined by the court, including but not limited
5.13 to reinstatement in employment.

5.14 (b) A covered employee subjected to retaliation in violation of this section may
5.15 bring an action in district court against the employer. A prevailing plaintiff in an action
5.16 under this paragraph is entitled to recover damages and reasonable attorney fees, and other
5.17 appropriate legal or equitable relief as determined by the court.

5.18 (c) Any person aggrieved by a violation of this section may file a complaint with the
5.19 attorney general. The filing of a complaint with the attorney general does not preclude
5.20 the filing of a civil action under paragraph (a) or (b). The attorney general may bring a
5.21 civil action in district court to enforce this section on behalf of any person. The attorney
5.22 general may request injunctive relief and, in the case of a willful violation, imposition of a
5.23 fine of \$1,000 per violation payable to the state.

5.24 (d) An action authorized by this subdivision may be filed no later than five years
5.25 from the date the alleged violation occurred.

5.26 (e) Persons filing an action under this subdivision may seek certification as a class,
5.27 consistent with the requirements of law and court rule.

5.28 Subd. 8. **Confidentiality and nondisclosure.** If an employer possesses health
5.29 or medical information or information pertaining to domestic abuse, sexual assault,
5.30 or stalking about a covered employee or covered employee's child, parent, spouse,
5.31 grandparent, sibling, or extended family member, such information shall be treated
5.32 as confidential and not disclosed except to the affected covered employee or with the
5.33 permission of the affected covered employee.

5.34 Subd. 9. **Encouragement of more generous sick and safe time policies; no effect**
5.35 **on more generous policies.** (a) Nothing in this section shall be construed to discourage or

6.1 prohibit an employer from the adoption or retention of an earned sick and safe time policy
 6.2 more generous than required under this section.

6.3 (b) Nothing in this section shall be construed as diminishing the obligation of an
 6.4 employer to comply with any contract, collective bargaining agreement, employment
 6.5 benefit plan, or other agreement providing more generous sick and safe time to a covered
 6.6 employee than required under this section.

6.7 (c) Nothing in this section shall be construed as diminishing the rights of public
 6.8 employees regarding paid leave or use of leave as provided in section 43A.1815.

6.9 Subd. 10. **Termination, separation, transfer.** Nothing in this subdivision may be
 6.10 construed as requiring financial or other reimbursement to a covered employee from an
 6.11 employer upon the covered employee's termination, resignation, retirement, or other
 6.12 separation from employment for accrued earned sick and safe time that has not been
 6.13 used. If a covered employee is transferred to a separate division, entity, or location, but
 6.14 remains employed by the same employer, the covered employee is entitled to all earned
 6.15 sick and safe time accrued at the prior division, entity, or location and is entitled to use
 6.16 all earned sick and safe time as provided in this section. When there is a separation from
 6.17 employment and the covered employee is rehired within 12 months of separation by the
 6.18 same employer, previously accrued earned sick and safe time that had not been used must
 6.19 be reinstated. A covered employee is entitled to use accrued earned sick and safe time and
 6.20 accrue additional earned sick and safe time at the commencement of reemployment.

6.21 An employer may loan earned sick and safe time to a covered employee in advance
 6.22 of accrual by the covered employee.

6.23 **EFFECTIVE DATE.** This section is effective 180 days following final enactment.

6.24 Sec. 2. **SEVERABILITY.**

6.25 If any provision of this act or application thereof to any person or circumstance is
 6.26 judged invalid, the invalidity shall not affect other provisions or applications of the act
 6.27 which can be given effect without the invalid provision or application, and to this end the
 6.28 provisions of this act are declared severable.

6.29 **EFFECTIVE DATE.** This section is effective the day following final enactment.

6.30 Sec. 3. **REPEALER.**

6.31 Minnesota Statutes 2013 Supplement, section 181.9413, is repealed.

6.32 **EFFECTIVE DATE.** This section is effective 180 days following final enactment.

181.9413 SICK LEAVE BENEFITS; CARE OF RELATIVES.

(a) An employee may use personal sick leave benefits provided by the employer for absences due to an illness of or injury to the employee's child, as defined in section 181.940, subdivision 4, adult child, spouse, sibling, parent, grandparent, or stepparent, for reasonable periods of time as the employee's attendance may be necessary, on the same terms upon which the employee is able to use sick leave benefits for the employee's own illness or injury. This section applies only to personal sick leave benefits payable to the employee from the employer's general assets.

(b) An employer may limit the use of personal sick leave benefits provided by the employer for absences due to an illness of or injury to the employee's adult child, spouse, sibling, parent, grandparent, or stepparent to no less than 160 hours in any 12-month period. This paragraph does not apply to absences due to the illness or injury of a child, as defined in section 181.940, subdivision 4.

(c) For purposes of this section, "personal sick leave benefits" means time accrued and available to an employee to be used as a result of absence from work due to personal illness or injury, but does not include short-term or long-term disability or other salary continuation benefits.

(d) For the purpose of this section, "child" includes a stepchild and a biological, adopted, and foster child.

(e) This section does not prevent an employer from providing greater sick leave benefits than are provided for under this section.