
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1477 Session of
2011

INTRODUCED BY GERGELY, BISHOP, CALTAGIRONE, D. COSTA, DALEY,
DEASY, DONATUCCI, GIBBONS, HARKINS, JOSEPHS, KAVULICH,
KIRKLAND, KULA, MCGEEHAN, MURPHY, M. O'BRIEN, STABACK AND
WAGNER, MAY 5, 2011

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, MAY 5, 2011

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

1 health needs or the health needs of family members.

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

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

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

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

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

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

25 Section 3. Definitions.

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

29 "Child." A biological, adopted or foster child, stepchild or
30 legal ward or a child to whom the employee stands in loco

1 parentis who is under 18 years of age or who is 18 years of age
2 or older but incapable of self-care or earning a living due to a
3 physical or mental disability or incapacity.

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

6 "Domestic violence." As "abuse" is defined in 23 Pa.C.S. §
7 6102 (relating to definitions).

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

10 "Employer." As defined in section 3 of the act of January
11 17, 1968 (P.L.11, No.5), known as The Minimum Wage Act 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 or small employer to an employee
21 for the purposes 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 child.

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 "Small employer." Any private individual, firm, partnership,
3 institution, corporation or association that employs less than
4 ten persons.

5 "Spouse." A person to whom the employee is legally married
6 under the laws of Pennsylvania.

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

9 Section 4. Accrual of paid sick leave.

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

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

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

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

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

30 (f) Compliance.--An employer with a paid leave policy who

1 makes available an amount of paid leave that may be used for the
2 same purposes and under the same conditions as paid sick leave
3 under this section shall be deemed to be in compliance with this
4 section.

5 Section 5. Use of paid sick leave.

6 (a) General rule.--Paid sick leave shall be provided to an
7 employee by an employer or small employer for:

8 (1) An employee's mental or physical illness, injury or
9 health condition or need for medical diagnosis, care or
10 treatment of a mental or physical illness, injury or health
11 condition or 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, with a mental or
16 physical illness, injury or health condition who needs
17 medical diagnosis, care or treatment of a mental or physical
18 illness, injury or health condition or who needs preventive
19 medical care.

20 (3) Absence necessary due to domestic violence, provided
21 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 or psychological
25 injury or disability caused by domestic or sexual
26 violence.

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 or sexual

1 violence 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 or sexual
5 violence.

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

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

24 Section 6. Retaliation prohibited.

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

1 Section 7. Notice and posting.

2 (a) Notice.--Employers shall give notice to employees
3 entitled to paid sick leave of the following:

4 (1) The amount of paid sick leave and the terms of its
5 use guaranteed under this act.

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

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

12 (b) Compliance.--

13 (1) Employers may comply with this section by supplying
14 each of their employees with a notice that contains the
15 information required in subsection (a).

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

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

24 Section 8. Regulations.

25 The department shall promulgate regulations to carry out the
26 provisions of this act.

27 Section 9. Enforcement.

28 (a) Failure to provide leave.--

29 (1) Any person aggrieved by failure to provide paid sick
30 leave as required by this act may bring a civil action in a

1 court of competent jurisdiction against an employer violating
2 this act.

3 (2) Upon prevailing in an action brought pursuant to
4 this subsection aggrieved, persons shall recover the full
5 amount of any unpaid sick leave plus any actual damages
6 suffered as the result of the employer's failure to provide
7 paid sick leave and shall also be entitled to reasonable
8 attorney fees.

9 (3) Upon prevailing in an action brought pursuant to
10 this subsection, aggrieved persons shall be entitled to such
11 legal or equitable relief as may be appropriate to remedy the
12 violation, including, without limitation, reinstatement in
13 employment and injunctive relief.

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

21 (c) Complaint.--Any person aggrieved by either a retaliatory
22 personnel action in violation of this act or by an employer's
23 failure to provide paid sick leave as required by this act may
24 file a complaint with the Office of Attorney General. The filing
25 of a complaint with the Office of Attorney General does not
26 preclude the filing of a civil action pursuant to subsection (a)
27 or (b).

28 (d) Action of Attorney General.--The Attorney General may
29 bring a civil action to enforce this act. The Attorney General
30 may seek injunctive relief. In addition to injunctive relief, or

1 in lieu thereof, for any employer or other person found to have
2 willfully violated this section, the Attorney General may seek
3 to impose a fine of \$1,000 per violation.

4 (e) Class action.--Actions brought under this section may be
5 brought as a class action pursuant to the laws of this
6 Commonwealth.

7 Section 10. Confidentiality and nondisclosure.

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

15 Section 11. Construction.

16 The following apply:

17 (1) Nothing in this act shall be construed to discourage
18 or prohibit an employer from the adoption or retention of a
19 paid leave policy more generous than the one required under
20 this act.

21 (2) Nothing in this act shall be construed as
22 diminishing the obligation of an employer to comply with any
23 contract, collective bargaining agreement, employment benefit
24 plan or other agreement providing more generous leave to an
25 employee than required herein.

26 (3) Nothing in this act shall be construed as
27 diminishing the rights of public employees regarding paid
28 sick leave or use of sick leave as provided in the employees'
29 employment contract or collective bargaining agreement.

30 (4) Nothing in this act shall be construed to conflict

1 with the act of January 17, 1968 (P.L.11, No.5) known as The
2 Minimum Wage Act of 1968.

3 Section 12. Effective date.

4 This act shall take effect as follows:

5 (1) This section and section 8 shall take effect
6 immediately.

7 (2) The remainder of this act shall take effect in 180
8 days.