

General Assembly

Raised Bill No. 5166

February Session, 2024

LCO No. 1125



Referred to Committee on LABOR AND PUBLIC EMPLOYEES

Introduced by: (LAB)

AN ACT EXPANDING PAID SICK DAYS IN THE STATE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. Section 31-57r of the 2024 supplement to the general
- 2 statutes is repealed and the following is substituted in lieu thereof
- 3 (*Effective January 1, 2025*):
- 4 As used in this section and sections 31-57s to 31-57w, inclusive, as
- 5 <u>amended by this act</u>:
- 6 (1) "Child" means (A) a biological, adopted or foster child, stepchild
- 7 [,] or legal ward of [a service worker, or] an employee, (B) a child of [a
- 8 service worker] an employee standing in loco parentis, [who is (A)
- 9 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] or (C)
- an individual to whom the employee stood in loco parentis when the
- 12 <u>individual was a child;</u>
- 13 [(2) "Day or temporary worker" means an individual who performs
- work for another on (A) a per diem basis, or (B) an occasional or
- 15 irregular basis for only the time required to complete such work,

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whether such individual is paid by the person for whom such work is performed or by an employment agency or temporary help service, as defined in section 31-129;]

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47 48 [(3)] (2) "Employee" means an individual engaged in service to an employer in the business of the employer. "Employee" does not include an individual who is a member of a construction-related trade person employee organization that is a party to a multiemployer health plan in which more than one employer is required to contribute to such plan and such plan is maintained pursuant to one or more collective bargaining agreements between a construction-related trade person employee organization or organizations and employers;

[(4)] (3) "Employer" means any person, firm, business, educational institution, nonprofit agency, corporation, limited liability company or other entity that (A) on and after January 1, 2025, employs [fifty or more individuals in the state twenty-five or more individuals in the state, (B) on and after January 1, 2026, employs eleven or more individuals in the state, and (C) on and after January 1, 2027, employs one or more individuals in the state, which shall be determined based on such person's, firm's, business', educational institution's, nonprofit agency's, corporation's, limited liability company's or other entity's payroll for the week containing October first, annually. "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;] (i) An employer that participates in a multiemployer health plan in which more than one employer is required to contribute to such plan and such plan is maintained pursuant to one or more collective bargaining agreements between a constructionrelated trade person employee organization or organizations and employers, or (ii) a self-employed individual;

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- 49 (4) "Family member" means a spouse, sibling, child, grandparent, 50 grandchild or parent of an employee. "Family member" does not include 51 an aunt, uncle, niece, nephew or cousin;
- 52 (5) "Family violence" has the same meaning as provided in section 53 46b-38a;
- (6) "Grandchild" means a grandchild related to a person by blood, 54 55 marriage, adoption by a child of the grandparent or foster care by a child 56 of the grandparent;
- 57 (7) "Parent" means (A) a biological, foster or adoptive parent, 58 stepparent, parent-in-law or legal guardian of an employee or an 59 employee's spouse, (B) an individual standing in loco parentis to an employee, or (C) an individual who stood in loco parentis to the 60 61 employee when the employee was a child;
- 62 [(6)] (8) "Mental health wellness day" means a day during which [a 63 service worker an employee attends to such [service worker's] 64 employee's emotional and psychological well-being in lieu of attending 65 a regularly scheduled shift;
- 66 (9) "Paid sick leave" means paid time that is provided by an employer 67 to an employee for the purposes described in section 31-57t, as amended 68 by this act;
- [(7)] (10) "Retaliatory personnel action" means any termination, 69 70 suspension, constructive discharge, demotion, unfavorable 71 reassignment, refusal to promote, disciplinary action or other adverse 72 employment action taken by an employer against an employee; [or a 73 service worker;]
- 74 [(8) "Service worker" means an employee primarily engaged in an 75 occupation with one of the following broad or detailed occupation code 76 numbers and titles, as defined by the federal Bureau of Labor Statistics 77 Standard Occupational Classification system or any successor system: (A) 11-9050 Food Service Managers; (B) 11-9110 Medical and Health

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79 Services Managers; (C) 21-1020 Social Workers; (D) 21-1093 Social and 80 Human Service Assistants; (E) 21-1094 Community Health Workers; (F) 81 21-1099 Community and Social Service Specialists, All Other; (G) 25-82 4020 Librarians; (H) 29-1050 Pharmacists; (I) 29-1070 Physician 83 Assistants; (J) 29-1120 Therapists; (K) 29-1140 Registered Nurses; (L) 29-84 1150 Nurse Anesthetists; (M) 29-1160 Nurse Midwives; (N) 29-1170 85 Nurse Practitioners; (O) 29-2020 Dental Hygienists; (P) 29-2040 86 Emergency Medical Technicians and Paramedics; (Q) 29-2050 Health 87 Practitioner Support Technologists and Technicians; (R) 29-2060 88 Licensed Practical and Licensed Vocational Nurses; (S) 31-1011 Home 89 Health Aides; (T) 31-1012 Nursing Aides, Orderlies and Attendants; (U) 90 31-1013 Psychiatric Aides; (V) 31-9091 Dental Assistants; (W) 31-9092 91 Medical Assistants; (X) 33-9032 Security Guards; (Y) 33-9091 Crossing 92 Guards; (Z) 35-1010 Supervisors of Food Preparation and Serving 93 Workers; (AA) 35-2010 Cooks; (BB) 35-2020 Food Preparation Workers; 94 (CC) 35-3010 Bartenders; (DD) 35-3020 Fast Food and Counter Workers; 95 (EE) 35-3030 Waiters and Waitresses; (FF) 35-3040 Food Servers, 96 Nonrestaurant; (GG) 35-9010 Dining Room and Cafeteria Attendants 97 and Bartender Helpers; (HH) 35-9020 Dishwashers; (II) 35-9030 Hosts 98 and Hostesses, Restaurant, Lounge and Coffee Shop; (II) 35-9090 99 Miscellaneous Food Preparation and Serving Related Workers; (KK) 37-100 2011 Janitors and Cleaners, Except Maids and Housekeeping Cleaners; 101 (LL) 37-2019 Building Cleaning Workers, All Other; (MM) 39-3030 102 Ushers, Lobby Attendants and Ticket Takers; (NN) 39-5010 Barbers, 103 Hairdressers, Hairstylists and Cosmetologists; (OO) 39-6010 Baggage 104 Porters, Bellhops and Concierges; (PP) 39-9010 Child Care Workers; 105 (QQ) 39-9021 Personal Care Aides; (RR) 41-1010 First-Line Supervisors 106 of Sales Workers; (SS) 41-2011 Cashiers; (TT) 41-2021 Counter and 107 Rental Clerks; (UU) 41-2030 Retail Salespersons; (VV) 43-3070 Tellers; 108 (WW) 43-4080 Hotel, Motel and Resort Desk Clerks; (XX) 43-4170 109 Receptionists and Information Clerks; (YY) 43-5020 Couriers and 110 Messengers; (ZZ) 43-6010 Secretaries and Administrative Assistants; 111 (AAA) 43-9010 Computer Operators; (BBB) 43-9020 Data Entry and 112 Information Processing Workers; (CCC) 43-9030 Desktop Publishers; 113 (DDD) 43-9040 Insurance Claims and Policy Processing Clerks; (EEE)

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- 114 43-9050 Mail Clerks and Mail Machine Operators, Except Postal Service;
- 115 (FFF) 43-9060 Office Clerks, General; (GGG) 43-9070 Office Machine
- Operators, Except Computer; (HHH) 43-9080 Proofreaders and Copy
- 117 Markers; (III) 43-9110 Statistical Assistants; (JJJ) 43-9190 Miscellaneous
- 118 Office and Administrative Support Workers; (KKK) 51-3010 Bakers;
- 119 (LLL) 51-3020 Butchers and Other Meat, Poultry and Fish Processing
- 120 Workers; (MMM) 51-3090 Miscellaneous Food Processing Workers;
- 121 (NNN) 53-3010 Ambulance Drivers and Attendants, Except Emergency
- Medical Technicians; (OOO) 53-3020 Bus Drivers; (PPP) 53-3040 Taxi
- 123 Drivers and Chauffeurs; or (QQQ) 29-2034 Radiologic Technologists,
- and is (i) paid on an hourly basis, or (ii) not exempt from the minimum
- 125 wage and overtime compensation requirements of the Fair Labor
- 126 Standards Act of 1938 and the regulations promulgated thereunder, as
- amended from time to time. "Service worker" does not include day or
- 128 temporary workers;]
- [(9)] (11) "Sexual assault" means any act that constitutes a violation of
- 130 section 53a-70b of the general statutes, revision of 1958, revised to
- 131 January 1, 2019, or section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or
- 132 53a-73a;
- 133 (12) "Sibling" means a brother or sister related to an employee by (A)
- blood, marriage or adoption by a parent of the employee, or (B) by foster
- 135 <u>care placement;</u>
- [(10)] (13) "Spouse" means a [husband or wife, as the case may be]
- person who is (A) legally married to an employee under the laws of any
- state, or (B) a domestic partner of an employee registered under the laws
- of any state or political subdivision; and
- [(11)] (14) "Year" means [any] a three-hundred-sixty-five-day period
- 141 used by an employer to calculate employee benefits that begins on
- 142 January first and ends on December thirty-first.
- Sec. 2. Section 31-57s of the general statutes is repealed and the
- 144 following is substituted in lieu thereof (*Effective January 1, 2025*):

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(a) Each employer shall provide forty hours of paid sick leave annually to each of such employer's [service workers] employees 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 forty hours per year. Each service worker shall be entitled to carry over up to forty unused accrued hours of paid sick leave from the current year to the following 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] be provided as follows: (1) For employees who have been employed by such employer for one hundred eighty days prior to January 1, 2025, such employer shall provide such employees with the amount of sick leave required pursuant to this section on January 1, 2025, (2) for employees who have not been employed by such employer for one hundred eighty days prior to January 1, 2025, an employer shall provide such employees with the amount of sick leave required pursuant to this section upon such employees' one hundred eightieth day of employment with such employer from such employee's date of hire, and (3) for employees hired on or after January 1, 2025, such employer shall provide such employees with the amount of sick leave required pursuant to this section upon such employee's one hundred eightieth day of employment with such employer from such employee's date of hire.

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(b) [A service worker] An employee shall be entitled to the use of [accrued] received paid sick leave [upon the completion of the service worker's six-hundred-eightieth hour of employment from January 1, 2012, if the service worker was hired prior to January 1, 2012, or if hired after January 1, 2012, upon the completion of the service worker's six-hundred-eightieth 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 ten or more hours per week for the employer in the most

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179 recent complete quarter] immediately.

- (c) An employer shall be deemed to be in compliance with this section if the employer (1) offers any other paid leave, or combination of other paid leave that [(1)] (A) may be used for the purposes of and under the same conditions provided in section 31-57t, as amended by this act, and [(2)] (B) is [accrued] received in total at a rate equal to or greater than the rate described in subsections (a) and (b) of this section, or (2) provides a one-time payment to each employee equal to forty hours of work at a pay rate equal to the greater of either (A) the normal hourly wage for that employee, or (B) the minimum fair wage rate under section 31-58 in effect at the time of such payment. For the purposes of this subsection, "other paid leave" may include, but need not be limited to, paid vacation, personal days or paid time off.
- (d) Each employer shall pay each [service worker] employee for paid sick leave at a pay rate equal to [the greater of either] (1) the normal hourly wage for that [service worker] employee, or (2) the minimum fair wage rate under section 31-58 in effect for the pay period during which the employee [used] uses paid sick leave, whichever is greater. For any [service worker] employee whose hourly wage varies depending on the work performed by [the service worker] such employee, "normal hourly wage" means the average hourly wage of the [service worker] employee in the pay period prior to the one in which the [service worker used] employee uses paid sick leave.
- (e) Notwithstanding the provisions of this section and sections 31-57t to 31-57w, inclusive, as amended by this act, and upon the mutual consent of the [service worker] employee and employer, [a service worker] an employee 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.
- (f) (1) If an employee is transferred by an employer to another division, entity or worksite but remains employed by such employer, such employee shall retain and may use all paid sick leave received by

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- 211 the employee while working at such prior division, entity or worksite.
- 212 (2) If another employer succeeds or takes the place of an existing
- 213 employer, each employee of the original employer who remains
- 214 employed by such other successor employer shall retain and may use
- 215 <u>all paid sick leave received while employed by the original employer.</u>
- 216 (g) No employer shall require an employee who will use or is using
- 217 paid sick leave to search for or find another employee to serve as a
- 218 replacement for such employee to work the hours that such employee is
- 219 <u>or was scheduled to work.</u>
- 220 [(f)] (h) No employer shall (1) terminate any employee, (2) dismiss
- 221 any employee, or (3) transfer any employee from one worksite to
- another solely in order to not qualify as an employer, as defined in
- section 31-57r, as amended by this act.
- Sec. 3. Section 31-57t of the 2024 supplement to the general statutes is
- repealed and the following is substituted in lieu thereof (*Effective January*
- 226 1, 2025):
- 227 (a) An employer shall permit [a service worker] an employee to use
- 228 the paid sick leave [accrued] <u>received</u> pursuant to section 31-57s, as
- 229 <u>amended by this act</u>:
- 230 (1) For (A) [a service worker's] an employee's illness, injury or health
- 231 condition, (B) the medical diagnosis, care or treatment of [a service
- worker's] an employee's mental [illness] or physical illness, injury or
- 233 health condition, (C) preventative medical care for [a service worker] an
- 234 <u>employee's mental or physical health</u>, or (D) a mental health wellness
- 235 day;
- 236 (2) For (A) [a service worker's child's or spouse's] illness, injury or
- 237 health condition of an employee's family member, (B) the medical
- 238 diagnosis, care or treatment of [a service worker's child's or spouse's]
- 239 mental or physical illness, injury or health condition of an employee's
- 240 <u>family member</u>, or (C) preventative medical care for [a child or spouse

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of a service worker; and] <u>an employee's family member for such family</u>
member's mental or physical health;

- (3) For closure, by order of a public official due to a public health emergency, of either (A) an employer's place of business, or (B) a family member's school or place of care;
- 246 (4) For a determination by a health authority having jurisdiction, an
 247 employer of the employee, an employer of a family member or a health
 248 care provider, that such employee or family member poses a risk to the
 249 health of others due to such employee's or family member's exposure to
 250 a communicable illness, whether or not the employee or family member
 251 contracted the communicable illness; and
 - [(3)] (5) Where [a service worker] an employee or an employee's family member is [(A)] a victim of family violence or sexual assault, [or (B) the parent or guardian of a child who is a victim of family violence or sexual assault,] provided such [service worker] employee is not the perpetrator or alleged perpetrator of such family violence or sexual assault, for [(i)] (A) medical care or psychological or other counseling for physical or psychological injury or disability, [(ii)] (B) obtaining services from a victim services organization, [(iii)] (C) relocating due to such family violence or sexual assault, or [(iv)] (D) participating in any civil or criminal proceedings related to or resulting from such family violence or sexual assault.
 - (b) If [a service worker's] <u>an employee's</u> need to use paid sick leave is foreseeable, an employer may require advance notice, not to exceed seven days prior to the date such leave is to begin, of the intention to use such leave. If [a service worker's] <u>an employee's</u> need for such leave is not foreseeable, an employer may require [a service worker] <u>an employee</u> to give notice of such intention as soon as practicable. [For paid sick leave of three or more consecutive days, an employer may require reasonable documentation that such leave is being taken for one of the purposes permitted under subsection (a) of this section. If such leave is permitted under subdivision (1) or (2) of subsection (a) of this

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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.]

No employer shall require an employee to provide such employer with documentation showing that such employee took paid sick leave for one of the purposes permitted under subsection (a) of this section.

- (c) Nothing in sections 31-57s to 31-57w, inclusive, <u>as amended by this act</u>, shall be deemed to require any employer to provide paid sick leave for [a service worker's] <u>an employee's</u> leave for any purpose other than those described in this section.
- (d) Unless an employee policy or collective bargaining agreement provides for the payment of accrued fringe benefits upon termination, no [service worker] employee shall be entitled to payment of unused [accrued] paid sick leave under this section upon termination of employment.
 - (e) Nothing in sections 31-57s to 31-57w, inclusive, <u>as amended by this act</u>, shall be construed to prohibit an employer from taking disciplinary action against [a service worker] <u>an employee</u> who uses paid sick leave provided under sections 31-57s to 31-57w, inclusive, <u>as amended by this act</u>, for purposes other than those described in this section.
 - Sec. 4. Section 31-57u of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2025*):
 - (a) Nothing in sections 31-57s to 31-57w, inclusive, <u>as amended by this act</u>, shall be construed to (1) prevent employers from providing more paid sick leave than is required under <u>said</u> sections, [31-57s to 31-57w, inclusive,] (2) diminish any rights provided to any employee [or

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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.

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- (b) Nothing in sections 31-57s to 31-57w, inclusive, <u>as amended by this act</u>, shall be construed to prohibit an employer (1) from establishing a policy whereby [a service worker] <u>an employee</u> may donate unused [accrued] paid sick leave to another [service worker] <u>employee</u>, and (2) who provides more paid sick leave than is required under sections 31-57s to 31-57w, inclusive, <u>as amended by this act</u>, for the purposes described in subdivision (1) of subsection (a) of section 31-57t, <u>as amended by this act</u>, from limiting the amount of such leave [a service worker] <u>an employee</u> may use for other purposes.
- 317 (c) Any termination of [a service worker's] an employee's 318 employment by an employer, whether voluntary or involuntary, shall 319 be construed as a break in service. Should any [service worker] employee subsequently be rehired by the employer following a break in 320 321 service, the [service worker] employee (1) shall [(1)] begin to [accrue] 322 receive sick leave in accordance with section 31-57s, as amended by this 323 act, and (2) shall not be entitled to any unused hours of paid sick leave 324 that had been [accrued] received prior to the [service worker's] 325 <u>employee's</u> break in service unless agreed to by the employer.
- Sec. 5. Section 31-57v of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2025*):
 - (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 31-57s, as amended by this act, and 31-57t, as amended by 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 31-57s to 31-57w, inclusive, as amended by this act.
 - (b) The Labor Commissioner shall advise any employee who (1) is

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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] the employee's right to pursue a grievance with [his or her] the employee's collective bargaining agent.

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- (c) Any employee aggrieved by a violation of the provisions of sections 31-57s to 31-57w, inclusive, as amended by this act, may file a complaint with the Labor Commissioner. Upon receipt of any such complaint, [said] the 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 five hundred dollars 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 31-57s to 31-57u, inclusive, as amended by this act, or section 31-57w, as amended by this act, shall be liable to the Labor Department for a civil penalty of up to one hundred dollars for each violation. 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.
- (d) The Labor Commissioner shall administer this section withinavailable appropriations.
- Sec. 6. Section 31-57w of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2025*):
 - (a) Each employer subject to the provisions of section 31-57s, as amended by this act, shall, at the time of hiring, provide notice to each [service worker] employee (1) of (A) the entitlement to paid sick leave

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for [service workers,] <u>employees</u>, (B) the amount of <u>paid</u> sick leave provided to [service workers] <u>employees</u>, and (C) the terms under which <u>paid</u> sick leave may be used, (2) that retaliation by the employer against the [service worker] <u>employee</u> for requesting or using <u>paid</u> sick leave for which the [service worker] <u>employee</u> is eligible is prohibited, and (3) that the [service worker] <u>employee</u> has a right to file a complaint with the Labor Commissioner for any violation of this section and of sections 31-57s to 31-57v, inclusive, <u>as amended by this act</u>. [Employers may]

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(b) Each employer shall comply with the provisions of subsection (a) of this section by (1) displaying a poster in a conspicuous place, accessible to [service workers] employees, at the employer's place of business that contains the information required by this section in both English and Spanish, [. The Labor Commissioner may adopt regulations, in accordance with chapter 54, to establish additional requirements concerning the means by which employers shall provide such notice. The Labor Commissioner shall administer this section within available appropriations.] and (2) providing written notice to each employee not later than January 1, 2025, or at the time of hire, whichever is later. For employers that do not maintain a physical workplace or for employees that telework or perform work through a web-based or application-based platform, employers shall comply with the provisions of subdivision (1) of this subsection by sending such information via electronic communication or by a conspicuous posting of such information on a web-based or application-based platform.

(c) Each employer subject to the provisions of section 31-57s, as amended by this act, shall include in the record required under section 31-13a (1) the number of hours, if any, of paid sick leave used by the employee during the calendar year, and (2) the number of employees, if any, the employer provides a one-time payment to in lieu of paid sick days during the calendar year. Each employer shall retain such records for a period of three years and shall allow the Labor Commissioner, with appropriate notice and at a mutually agreeable time, access to such record in order to monitor compliance with the requirements of this

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section. Failure by an employer to retain adequate records documenting hours worked by an employee and paid sick leave used by such employee or to allow reasonable access to such records shall be a violation of this subsection

(d) The Labor Commissioner may adopt regulations, in accordance with the provisions of chapter 54, to implement the provisions of this section and sections 31-57s to 31-57v, inclusive, as amended by this act.

This act shall take effect as follows and shall amend the following		
sections:		
Section 1	January 1, 2025	31-57r
Sec. 2	January 1, 2025	31-57s
Sec. 3	January 1, 2025	31-57t
Sec. 4	January 1, 2025	31-57u
Sec. 5	January 1, 2025	31-57v
Sec. 6	January 1, 2025	31-57w

Statement of Purpose:

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To expand the paid sick days statutes to (1) apply to more employers and employees, (2) expand the categories of family members an employee may use paid sick leave to care for, (3) expand the permitted purposes that an employee may use paid sick leave for, (4) modify the rate at which an employee may receive paid sick leave, and (5) make other conforming and clarifying changes.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

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