

SENATE BILL NO. 209—SENATOR DONATE

MARCH 11, 2021

JOINT SPONSORS: ASSEMBLYMEN GONZÁLEZ AND WATTS

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to employment. (BDR 53-953)

FISCAL NOTE: Effect on Local Government: No. Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to employment; requiring an employer in private employment to allow any use of paid leave; requiring the Legislative Committee on Health Care to conduct an interim study concerning the long-term implications of SARS-CoV-2 on casino workers and frontline workers; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires an employer in private employment who has 50 or more employees in this State to provide at least 0.01923 hours of paid leave to an employee for each hour worked, which may be used by the employee beginning on the 90th calendar day of his or her employment. Existing law authorizes an employer to impose certain limitations on the accrual and use of paid leave and exempts certain employers from the requirements of existing law. (NRS 608.197) **Section 1** of this bill requires an employer to allow an employee to use paid leave for any use, including: (1) treatment of a medical or physical illness, injury or health condition; (2) receiving a medical diagnosis or medical care; (3) receiving or participating in preventative care; (4) receiving a vaccination, including a vaccination for SARS-CoV-2; (5) participating in caregiving; or (6) addressing other personal needs related to the health of the employee. Existing law creates the Legislative Committee on Health Care. (NRS 439B.200) **Section 2** of this bill requires the Committee to conduct a study during the 2021-2022 interim concerning the long-term health implications of SARS-CoV-2 on casino workers and frontline workers, including workers living in this State who do not have lawful immigration status. **Section 2:** (1) requires the Committee, in conducting this study, to appoint a representative of minority communities; and (2) authorizes the Committee to appoint additional representatives of other affected



20 communities. **Section 2** requires the Committee to submit a report of the results of
21 the study and any recommendations for legislation relating to the study to the
22 Director of the Legislative Counsel Bureau for transmittal to the 82nd Session of
23 the Nevada Legislature.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 608.0197 is hereby amended to read as
2 follows:

3 608.0197 1. Except as otherwise provided in this section,
4 every employer in private employment shall provide paid leave to
5 each employee of the employer as follows:

6 (a) An employee is entitled to at least 0.01923 hours of paid
7 leave for each hour of work performed.

8 (b) An employee may, as determined by the employer, obtain
9 paid leave by:

10 (1) Receiving on the first day of each benefit year the total
11 number of hours of paid leave that the employee is entitled to accrue
12 in a benefit year pursuant to paragraph (a); or

13 (2) Accruing over the course of a benefit year the total
14 number of hours of paid leave that the employee is entitled to accrue
15 in a benefit year pursuant to paragraph (a).

16 (c) Paid leave accrued pursuant to subparagraph (2) of paragraph
17 (b) may carry over for each employee between his or her benefit
18 years of employment, except an employer may limit the amount of
19 paid leave for each employee carried over to a maximum of 40
20 hours per benefit year.

21 (d) Except as otherwise provided in paragraph (i), an employer
22 shall:

23 (1) Compensate an employee for the paid leave available for
24 use by that employee at the rate of pay at which the employee is
25 compensated at the time such leave is taken, as calculated pursuant
26 to paragraph (e); and

27 (2) Pay such compensation on the same payday as the hours
28 taken are normally paid.

29 (e) For the purposes of determining the rate of pay at which an
30 employee is compensated pursuant to paragraph (d), the
31 compensation rate for an employee who is paid by:

32 (1) Salary, commission, piece rate or a method other than
33 hourly wage must:

34 (I) Be calculated by dividing the total wages of the
35 employee paid for the immediately preceding 90 days by the
36 number of hours worked during that period;



1 (II) Except as otherwise provided in sub-subparagraph
2 (III), include any bonuses agreed upon and earned by the employee;
3 and

4 (III) Not include any bonuses awarded at the sole
5 discretion of the employer, overtime pay, additional pay for
6 performing hazardous duties, holiday pay or tips earned by the
7 employee.

8 (2) Hourly wage must be calculated by the hourly rate the
9 employee is paid by the employer.

10 (f) An employer may limit the amount of paid leave an
11 employee uses to 40 hours per benefit year.

12 (g) An employer may set a minimum increment of paid leave,
13 not to exceed 4 hours, that an employee may use at any one time.

14 (h) An employer shall provide to each employee on each payday
15 an accounting of the hours of paid leave available for use by that
16 employee. An employer may use the system that the employer uses
17 to pay its employees to provide the accounting of the hours of paid
18 leave available for use by the employee.

19 (i) An employer may, but is not required to, compensate an
20 employee for any unused paid leave available for use by that
21 employee upon separation from employment, except if the employee
22 is rehired by the employer within 90 days after separation from that
23 employer and the separation from employment was not due to the
24 employee voluntarily leaving his or her employment, any previously
25 unused paid leave hours available for use by that employee must be
26 reinstated.

27 2. An employee in private employment may use paid leave
28 available for use by that employee as follows:

29 (a) An employer shall allow an employee to use paid leave
30 beginning on the 90th calendar day of his or her employment.

31 (b) *An employer shall allow an employee to use paid leave for*
32 *any use, including, without limitation:*

33 (1) *Treatment of a mental or physical illness, injury or*
34 *health condition;*

35 (2) *Receiving a medical diagnosis or medical care;*

36 (3) *Receiving or participating in preventative care;*

37 (4) *Receiving a vaccination, including, without limitation, a*
38 *vaccination for COVID-19;*

39 (5) *Participating in caregiving; or*

40 (6) *Addressing other personal needs related to the health of*
41 *the employee.*

42 (c) An employee may use paid leave available for use by that
43 employee without providing a reason to his or her employer for such
44 use.



1 ~~(c)~~ (d) An employee shall, as soon as practicable, give notice
2 to his or her employer to use the paid leave available for use by that
3 employee.

4 3. An employer shall not:

5 (a) Deny an employee the right to use paid leave available for
6 use by that employee in accordance with the conditions of this
7 section;

8 (b) Require an employee to find a replacement worker as a
9 condition of using paid leave available for use by that employee; or

10 (c) Retaliate against an employee for using paid leave available
11 for use by that employee.

12 4. The Labor Commissioner shall prepare a bulletin which
13 clearly sets forth the benefits created by this section. The Labor
14 Commissioner shall post the bulletin on the Internet website
15 maintained by the Office of Labor Commissioner, if any, and shall
16 require all employers to post the bulletin in a conspicuous location
17 in each workplace maintained by the employer. The bulletin may be
18 included in any printed abstract posted by the employer pursuant to
19 NRS 608.013.

20 5. An employer shall maintain a record of the receipt or accrual
21 and use of paid leave pursuant to this section for each employee for
22 a 1-year period following the entry of such information in the record
23 and, upon request, shall make those records available for inspection
24 by the Labor Commissioner.

25 6. The provisions of this section do not:

26 (a) Limit or abridge any other rights, remedies or procedures
27 available under the law.

28 (b) Negate any other rights, remedies or procedures available to
29 an aggrieved party.

30 (c) Prohibit, preempt or discourage any contract or other
31 agreement that provides a more generous paid leave benefit or paid
32 time off benefit.

33 7. For the first 2 years of operation, an employer is not required
34 to comply with the provisions of this section.

35 8. This section does not apply to:

36 (a) An employer who, pursuant to a contract, policy, collective
37 bargaining agreement or other agreement, provides employees with
38 a policy for paid leave or a policy for paid time off to all scheduled
39 employees at a rate of at least 0.01923 hours of paid leave per hour
40 of work performed; and

41 (b) Temporary, seasonal or on-call employees.

42 9. As used in this section:

43 (a) "Benefit year" means a 365-day period used by an employer
44 when calculating the accrual of paid leave.

45 (b) ***"COVID-19" means:***



- 1 (1) *The novel coronavirus identified as SARS-CoV-2;*
2 (2) *Any mutation of the novel coronavirus identified as*
3 *SARS-CoV-2; or*
4 (3) *A disease or health condition caused by the novel*
5 *coronavirus identified as SARS-CoV-2.*

6 (c) “Employer” means a private employer who has 50 or more
7 employees in private employment in this State.

8 **Sec. 2.** 1. The Legislative Committee on Health Care shall
9 conduct a study during the 2021-2022 interim concerning the long-
10 term health implications related to the COVID-19 health crisis on
11 casino workers and frontline workers, including, without limitation,
12 casino and frontline workers living in this State who do not have
13 lawful immigration status.

14 2. In conducting the study, the Legislative Committee on
15 Health Care shall appoint a representative of minority communities.
16 The Committee may appoint additional representatives of other
17 affected communities, as determined by the Committee.

18 3. The Legislative Committee on Health Care shall submit a
19 report of the results of the study and any recommendations for
20 legislation relating to the study to the Director of the Legislative
21 Counsel Bureau for transmittal to the 82nd Session of the Nevada
22 Legislature.

23 4. As used in this section:

24 (a) “COVID-19” means:

- 25 (1) The novel coronavirus identified as SARS-CoV-2;
26 (2) Any mutation of the novel coronavirus identified as
27 SARS-CoV-2; or
28 (3) A disease or health condition caused by the novel
29 coronavirus identified as SARS-CoV-2.

30 (b) “Casino worker” means an employee of a casino or hotel,
31 including, without limitation, a gaming employee. As used in this
32 paragraph, “gaming employee” has the meaning ascribed to it in
33 NRS 463.0157.

34 (c) “Frontline worker” means any person who is at a greater risk
35 of acquiring and transmitting infection due to unavoidable, close
36 and prolonged contact with others required to perform his or her job
37 responsibilities. This term includes, without limitation, any workers
38 that the Legislative Committee on Health Care determines are
39 frontline workers.

