
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 169 Session of
2019

INTRODUCED BY DONATUCCI, SCHLOSSBERG, MULLINS, A. DAVIS,
KRUEGER, ISAACSON, OTTEN, YOUNGBLOOD, SOLOMON, RABB, HILL-
EVANS, CALTAGIRONE, BULLOCK, SCHWEYER, McCLINTON, HOWARD AND
DAWKINS, JANUARY 28, 2019

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, JANUARY 28, 2019

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, 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 exceed the
24 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

parentis, who is under 18 years of age or 18 years of age or older and incapable of self-care or earning a living due to a disability or incapacity that is either physical or mental.

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

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

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

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

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

"Grandparent." A parent of a parent.

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

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

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

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

1 "Sexual assault." As the offense is defined in 18 Pa.C.S. §
2 3124.1 (relating to sexual assault).

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

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

7 Section 4. Accrual of paid sick leave.

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

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

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

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

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

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

1 under this section shall be deemed to be in compliance with this
2 section.

3 Section 5. Use of paid sick leave.

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

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

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

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

12 (iii) need for preventive medical care.

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

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

20 (ii) preventive medical care.

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

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

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

30 (iii) Obtain psychological or other counseling.

1 (iv) Seek relocation due to the domestic violence,
2 sexual assault or stalking.

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

7 (b) Notice.--An employer may require reasonable notice of
8 the need for paid sick leave. Where the need for the leave is
9 foreseeable, an employer may require advance notice of the
10 intention to take leave, but in no case shall require more than
11 seven days' notice. Where the need is not foreseeable, an
12 employer may require an employee to give notice of the need for
13 leave as soon 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 under subsection (a). Under subsection (a)
17 (1) 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 may not take retaliatory personnel action or
26 discriminate against an employee because the employee has
27 requested paid sick leave under this act or taken paid sick
28 leave guaranteed by this act or made a complaint or filed an
29 action to enforce an employee's right to paid sick leave under
30 this act.

1 Section 7. Notice and posting.

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

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

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

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

12 (b) Compliance.--

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

25 (a) Failure to provide leave.--

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

30 (2) Upon prevailing in an action brought under this

1 subsection, an aggrieved person shall recover the full amount
2 of any unpaid sick leave plus any actual damages suffered as
3 the result of the employer's failure to provide paid sick
4 leave and shall also be entitled to reasonable attorney fees.

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

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

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

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

30 (e) Class action.--Actions brought under this section may be

1 brought as a class action under the laws of this 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 necessary to
30 carry out the provisions of this act.

1 Section 12. Effective date.

2 This act shall take effect as follows:

3 (1) The following shall take effect immediately:

4 (i) Section 11.

5 (ii) This section.

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