

1 S.213

2 Introduced by Senator Cummings

3 Referred to Committee on

4 Date:

5 Subject: Labor; employment practices; paid parental leave

6 Statement of purpose of bill as introduced: This bill proposes to establish a  
7 private insurance system for the provision of up to five weeks of paid leave for  
8 the birth or adoption of a child.

9 An act relating to parental leave insurance benefits

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 Sec. 1. 21 V.S.A. § 475 is added to read:

12 § 475. PARENTAL LEAVE INSURANCE

13 (a) Definitions. As used in this section:

14 (1) "Average weekly wage" means the average weekly wage of an  
15 employee during the two calendar quarters of the year preceding the parental  
16 leave taken pursuant to this section in which the employee's wages were the  
17 highest.

18 (2) "Benefit year" means the one-year period beginning with the first  
19 day of the week in which the individual files a valid claim for benefits in  
20 accordance with this section, or the one-year period beginning with the first

1 day of the first week in which the individual next files a claim for benefits after  
2 the termination of his or her last preceding benefit year.

3 (3) "Calendar quarter" means a period of three consecutive calendar  
4 months ending on March 31, June 30, September 30, or December 31, or the  
5 equivalent as prescribed in rules adopted by the Commissioner.

6 (4) "Child" means a biological or adopted child.

7 (5) "Commissioner" means the Commissioner of Labor.

8 (6) "Department" means the Department of Labor.

9 (7) "Employee" means a person who, in consideration of direct or  
10 indirect gain or profit, has been continuously employed by the same employer  
11 for a period of eight weeks for an average of at least 30 hours per week.

12 (8) "Employer" means an individual, organization, governmental body,  
13 partnership, association, corporation, legal representative, trustee, receiver,  
14 trustee in bankruptcy, or any common carrier by rail, motor, water, air, or  
15 express company doing business in or operating within this State that employs  
16 10 or more individuals who are employed for an average of at least 30 hours  
17 per week during a year.

18 (9) "Parental leave" means a leave of absence from employment for one  
19 of the following reasons by an employee who works for an employer that  
20 employs 10 or more individuals who are employed for an average of at least  
21 30 hours per week during the year:

1           (A) the birth of the employee’s child; or

2           (B) the initial placement of a child 16 years of age or younger with  
3 the employee for the purpose of adoption.

4           (10) “Parental leave insurance benefits” means benefits related to the  
5 birth or adoption of a child that are payable pursuant to this section.

6           (b)(1) An employer shall, through its own contributions and the  
7 contributions of its employees, secure parental leave insurance benefits for its  
8 employees in one or more of the following ways.

9           (A) By insuring and keeping insured the payment of parental leave  
10 insurance benefits with a corporation or reciprocal or interinsurance exchange  
11 authorized to transact the business of workers’ compensation insurance in this  
12 State.

13           (B) By obtaining and keeping in force guarantee insurance with any  
14 company authorized to do guarantee business within the State.

15           (C) By establishing and maintaining to the satisfaction of the  
16 Commissioner the employer’s financial ability to secure payment by the  
17 employer of parental leave benefits as provided by this section. The  
18 Department of Financial Regulation shall provide to the Commissioner  
19 technical assistance and a recommendation on each self-insurance application.  
20 For purposes of this subdivision, the Commissioner shall, after consultation  
21 with the Commissioner of Financial Regulation, adopt rules and impose terms

1 and conditions, including surety bonds, cash deposits, or reserves and excess  
2 risk insurance, as necessary to ensure the same security for payment of parental  
3 leave benefits as provided under a contract for parental leave insurance. The  
4 fund shall be free from attachment or trustee process so long as any liability for  
5 the parental leave benefits exists.

6 (D) By participating to the satisfaction of the Commissioner in a  
7 nonprofit, self-insurance corporation approved by the Commissioner of  
8 Financial Regulation under 21 V.S.A. chapter 9.

9 (2)(A) An employer may deduct the cost of providing parental leave  
10 insurance benefits from each employee's wages, but in no event shall the  
11 amount deducted from an employee's wages exceed 0.5 percent of the  
12 employee's wages in the current pay period.

13 (B) The employer shall pay any amount by which the cost of  
14 providing parental leave insurance benefits to its employees exceeds the  
15 amount deducted from the employees' wages pursuant to this subdivision.

16 (c)(1) An employee shall file an application for parental leave insurance  
17 benefits with his or her employer on a form prescribed by the Commissioner:

18 (A) at least 14 days before the arrival of a child; or

19 (B) for an unanticipated premature birth, as soon as practicable after  
20 the birth.

1           (2) An employee may use up to five weeks of parental leave insurance  
2           benefits during a benefit year.

3           (3) An employer may require an employee to use his or her parental  
4           leave insurance benefits concurrently with leave taken pursuant to section 472  
5           of this chapter.

6           (4) Parental leave insurance benefits may be used alone, in combination  
7           with, or in addition to any accrued sick leave, vacation leave, or other paid  
8           leave that the employee is permitted to use during a leave taken pursuant to  
9           section 472 of this chapter.

10          (d) The amount of an employee's parental leave insurance benefit shall be  
11          equal to one-half of his or her average weekly wage or \$250.00 per week,  
12          whichever is less.

13          (e) The initial payment of parental leave insurance benefits to an employee  
14          shall occur within two weeks after the commencement of his or her parental  
15          leave. Further payments of parental leave insurance benefits shall be made on  
16          a weekly or biweekly basis.

17          (f)(1) During the period the employee is receiving parental leave insurance  
18          benefits, an employer shall continue an employee's employment benefits at the  
19          same level and under the same conditions as if the employee were working.

20          The employer may require that the employee contribute to the cost of the

1 benefits during the employee's parental leave at the employee's existing rate of  
2 contribution.

3 (2) Upon returning from a parental leave taken under this section, an  
4 employee shall be offered the same or comparable job at the same level of  
5 compensation, employment benefits, seniority, and any other term or condition  
6 of the employment existing on the day the leave began.

7 (3)(A) Nothing in this section shall be construed to diminish an  
8 employer's obligation to comply with any collective bargaining agreement or  
9 any employment benefit program or plan which provides greater parental leave  
10 rights or benefits than the rights and benefits provided by this section.

11 (B) A collective bargaining agreement or employment benefit  
12 program or plan shall not diminish rights or benefits provided by this section.

13 (g) If two employees from the same family and employed by the same  
14 employer request to use parental leave insurance benefits provided pursuant to  
15 this section, the employer may require that the employees take parental leave at  
16 separate times.

17 (h)(1) Any person that is not an employer subject to this section may elect  
18 to secure parental leave insurance benefits as provided by this section for some  
19 or all of the individuals that it employs. An employer that elects to secure  
20 parental leave insurance benefits pursuant to this subdivision shall provide

1 notice to the Commissioner on a form provided by the Commissioner, and the  
2 election shall take effect 30 days after the notice is filed.

3 (2) Any person that has elected to secure parental leave insurance  
4 benefits pursuant to subdivision (1) of this subsection may elect to terminate its  
5 parental leave insurance benefits for some or all of the individuals that it  
6 employs by providing the Commissioner with no less than 90 days' notice of  
7 its intent to terminate its election. A person that terminates its election as  
8 provided in this subdivision shall be obligated to ensure the payment of all  
9 benefits that are due within 35 days following the date on which its election  
10 terminates.

11 (i)(1) Dispute resolution. In the event of a dispute between an employee  
12 and his or her employer regarding the employee's eligibility for or payment of  
13 parental leave insurance benefits to the employee under this section, either  
14 party may submit the dispute to the Commissioner for a hearing and  
15 determination of the parties' rights. The Commissioner shall designate a time  
16 and place for hearing the dispute and provide to the parties at least six days'  
17 notice of the hearing.

18 (2) No proposed findings of fact shall be required from the parties  
19 unless ordered by the Commissioner. If ordered, the proposed findings of fact  
20 shall be submitted within 30 days after conclusion of the hearing.





1 or injury of employees. Workers' compensation also includes parental leave  
2 insurance benefits provided pursuant to 21 V.S.A. § 475.

3 \* \* \*

4 Sec. 3. 8 V.S.A. chapter 117, subchapter 3 is added to read:

5 Subchapter 3. Parental Leave Insurance

6 § 4391. PARENTAL LEAVE INSURANCE

7 (a) A workers' compensation insurance policy may provide coverage for  
8 parental leave insurance benefits as set forth in 21 V.S.A. § 475. Coverage of  
9 parental leave insurance benefits under such a policy shall be consistent with  
10 any applicable rules adopted by the Commissioner of Labor or the  
11 Commissioner of Financial Regulation.

12 (b) As used in this section, "workers' compensation insurance policy"  
13 means any form of security for workers' compensation authorized pursuant to  
14 21 V.S.A. chapter 9.

15 (c) The Commissioner of Financial Regulation, in consultation with the  
16 Commissioner of Labor, shall adopt rules necessary to implement this  
17 subchapter.

18 Sec. 4. 21 V.S.A. § 472 is amended to read:

19 § 472. LEAVE

20 \* \* \*



1        (b) Outreach information provided under this section shall explain the  
2        following in an easy-to-understand format:

3            (1) eligibility requirements for the use of parental leave insurance  
4        benefits;

5            (2) weekly benefit amounts;

6            (3) maximum benefit amounts;

7            (4) notice requirements;

8            (5) application requirements;

9            (6) reinstatement and nondiscrimination rights for employees that use or  
10        apply for benefits pursuant to 21 V.S.A. § 475;

11           (7) coordination between 21 V.S.A. § 475 and other State and federal  
12        parental and family leave laws; and

13           (8) the effect of 21 V.S.A. § 475 on collective bargaining agreements  
14        and employee benefit programs and plans.

15        Sec. 6. STUDY OF STATE INSURANCE POOL; REPORT

16           The Commissioner of Labor, in consultation with the Commissioner of  
17        Financial Regulation and the Commissioner of Taxes, shall study potential  
18        designs for a State-operated insurance pool that public and private sector  
19        employers required to provide parental leave insurance to their employees  
20        could participate in and the feasibility of providing such an insurance pool. On  
21        or before January 1, 2017, the Commissioner shall report to the House

1 Committees on Commerce and Economic Development and on General,  
2 Housing and Military Affairs and the Senate Committees on Economic  
3 Development, Housing and General Affairs and on Finance regarding the  
4 findings of the study and any recommendations for legislative action.

5 Sec. 7. ADOPTION OF RULES; COMMISSIONER OF LABOR;

6 COMMISSIONER OF FINANCIAL REGULATION

7 (a) On or before March 1, 2017, the Commissioner of Labor shall adopt  
8 rules as required by 21 V.S.A. § 475.

9 (b) On or before March 1, 2017, the Commissioner of Financial Regulation  
10 shall adopt rules as required by 8 V.S.A. § 4375.

11 (c) On or before March 1, 2017, except as otherwise provided by  
12 subsections (a) and (b) of this section, the Commissioner of Labor, in  
13 consultation with the Commissioner of Financial Regulation, shall adopt any  
14 rules necessary to implement this act.

15 Sec. 8. EFFECTIVE DATES

16 (a) This act shall take effect on July 1, 2016.

17 (b) No later than July 1, 2017, employers shall obtain parental leave  
18 insurance as provided in Sec. 1, 21 V.S.A. § 475, and beginning on August 1,  
19 2017 employees may begin using parental leave insurance benefits as provided  
20 by this act.