
SENATE BILL 5979

State of Washington

68th Legislature

2024 Regular Session

By Senators Keiser, Conway, Saldaña, Randall, Kuderer, Lias, Kauffman, and Van De Wege

Prefiled 01/04/24.

1 AN ACT Relating to accrued leave for construction workers;
2 amending RCW 49.46.210; and declaring an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 49.46.210 and 2023 c 267 s 1 are each amended to
5 read as follows:

6 (1) Beginning January 1, 2018, except as provided in RCW
7 49.46.180, every employer shall provide each of its employees paid
8 sick leave as follows:

9 (a) An employee shall accrue at least one hour of paid sick leave
10 for every forty hours worked as an employee. An employer may provide
11 paid sick leave in advance of accrual provided that such front-
12 loading meets or exceeds the requirements of this section for
13 accrual, use, and carryover of paid sick leave.

14 (b) An employee is authorized to use paid sick leave for the
15 following reasons:

16 (i) An absence resulting from an employee's mental or physical
17 illness, injury, or health condition; to accommodate the employee's
18 need for medical diagnosis, care, or treatment of a mental or
19 physical illness, injury, or health condition; or an employee's need
20 for preventive medical care;

1 (ii) To allow the employee to provide care for a family member
2 with a mental or physical illness, injury, or health condition; care
3 of a family member who needs medical diagnosis, care, or treatment of
4 a mental or physical illness, injury, or health condition; or care
5 for a family member who needs preventive medical care; and

6 (iii) When the employee's place of business has been closed by
7 order of a public official for any health-related reason, or when an
8 employee's child's school or place of care has been closed for such a
9 reason.

10 (c) An employee is authorized to use paid sick leave for absences
11 that qualify for leave under the domestic violence leave act, chapter
12 49.76 RCW.

13 (d) An employee is entitled to use accrued paid sick leave
14 beginning on the ninetieth calendar day after the commencement of his
15 or her employment.

16 (e) Employers are not prevented from providing more generous paid
17 sick leave policies or permitting use of paid sick leave for
18 additional purposes.

19 (f) An employer may require employees to give reasonable notice
20 of an absence from work, so long as such notice does not interfere
21 with an employee's lawful use of paid sick leave.

22 (g) For absences exceeding three days, an employer may require
23 verification that an employee's use of paid sick leave is for an
24 authorized purpose. If an employer requires verification,
25 verification must be provided to the employer within a reasonable
26 time period during or after the leave. An employer's requirements for
27 verification may not result in an unreasonable burden or expense on
28 the employee and may not exceed privacy or verification requirements
29 otherwise established by law.

30 (h) An employer may not require, as a condition of an employee
31 taking paid sick leave, that the employee search for or find a
32 replacement worker to cover the hours during which the employee is on
33 paid sick leave.

34 (i) For each hour of paid sick leave used, an employee shall be
35 paid the greater of the minimum hourly wage rate established in this
36 chapter or his or her normal hourly compensation. The employer is
37 responsible for providing regular notification to employees about the
38 amount of paid sick leave available to the employee.

39 (j) Except as provided in (l) of this subsection, accrued and
40 unused paid sick leave carries over to the following year, but an

1 employer is not required to allow an employee to carry over paid sick
2 leave in excess of 40 hours.

3 (k) Except as provided in (l) of this subsection, an employer is
4 not required to provide financial or other reimbursement for accrued
5 and unused paid sick leave to any employee upon the employee's
6 termination, resignation, retirement, or other separation from
7 employment. When there is a separation from employment and the
8 employee is rehired within 12 months of separation by the same
9 employer, whether at the same or a different business location of the
10 employer, previously accrued unused paid sick leave shall be
11 reinstated and the previous period of employment shall be counted for
12 purposes of determining the employee's eligibility to use paid sick
13 leave under subsection (1)(d) of this section. For purposes of this
14 subsection (1)(k), "previously accrued and unused paid sick leave"
15 does not include sick leave paid out to a construction worker under
16 (l) of this subsection.

17 (l) (~~(For workers covered under the North American industry~~
18 ~~classification system industry code 23, except for North American~~
19 ~~industry classification system code 236100, residential building~~
20 ~~construction,)) (i) A construction industry employer must pay a
21 construction worker, who ((have)) has not met the 90th day
22 eligibility under (d) of this subsection at the time of separation,
23 (~~the employer must pay the former worker~~) the balance of (~~their~~)
24 the worker's accrued and unused paid sick leave at the end of the
25 established pay period(~~, pursuant to RCW 49.48.010(2),~~) following
26 the worker's separation pursuant to RCW 49.48.010(2).~~

27 (ii) The definitions in this subsection (1)(l)(ii) apply
28 throughout this subsection (1)(l) unless the context clearly requires
29 otherwise.

30 (A) "Construction worker" means a worker who performed service,
31 maintenance, or construction work on a jobsite, in the field or in a
32 fabrication shop using the tools of the worker's trade or craft.

33 (B) "Construction industry employer" means an employer in the
34 industry described in North American industry classification system
35 industry code 23, except for residential building construction code
36 2361.

37 (2) For purposes of this section, "family member" means any of
38 the following:

39 (a) A child, including a biological, adopted, or foster child,
40 stepchild, or a child to whom the employee stands in loco parentis,

1 is a legal guardian, or is a de facto parent, regardless of age or
2 dependency status;

3 (b) A biological, adoptive, de facto, or foster parent,
4 stepparent, or legal guardian of an employee or the employee's spouse
5 or registered domestic partner, or a person who stood in loco
6 parentis when the employee was a minor child;

7 (c) A spouse;

8 (d) A registered domestic partner;

9 (e) A grandparent;

10 (f) A grandchild; or

11 (g) A sibling.

12 (3) An employer may not adopt or enforce any policy that counts
13 the use of paid sick leave time as an absence that may lead to or
14 result in discipline against the employee.

15 (4) An employer may not discriminate or retaliate against an
16 employee for his or her exercise of any rights under this chapter
17 including the use of paid sick leave.

18 (5)(a) The definitions in this subsection apply to this
19 subsection:

20 (i) "Average hourly compensation" means a driver's compensation
21 during passenger platform time from, or facilitated by, the
22 transportation network company, during the 365 days immediately prior
23 to the day that paid sick time is used, divided by the total hours of
24 passenger platform time worked by the driver on that transportation
25 network company's driver platform during that period. "Average hourly
26 compensation" does not include tips.

27 (ii) "Driver," "driver platform," "passenger platform time," and
28 "transportation network company" have the meanings provided in RCW
29 49.46.300.

30 (iii) "Earned paid sick time" is the time provided by a
31 transportation network company to a driver as calculated under this
32 subsection. For each hour of earned paid sick time used by a driver,
33 the transportation network company shall compensate the driver at a
34 rate equal to the driver's average hourly compensation.

35 (iv) For purposes of drivers, "family member" means any of the
36 following:

37 (A) A child, including a biological, adopted, or foster child,
38 stepchild, or a child to whom the driver stands in loco parentis, is
39 a legal guardian, or is a de facto parent, regardless of age or
40 dependency status;

1 (B) A biological, adoptive, de facto, or foster parent,
2 stepparent, or legal guardian of a driver or the driver's spouse or
3 registered domestic partner, or a person who stood in loco parentis
4 when the driver was a minor child;

5 (C) A spouse;

6 (D) A registered domestic partner;

7 (E) A grandparent;

8 (F) A grandchild; or

9 (G) A sibling.

10 (b) Beginning January 1, 2023, a transportation network company
11 must provide to each driver operating on its driver platform
12 compensation for earned paid sick time as required by this subsection
13 and subject to the provisions of this subsection. A driver shall
14 accrue one hour of earned paid sick time for every 40 hours of
15 passenger platform time worked.

16 (c) A driver is entitled to use accrued earned paid sick time
17 upon recording 90 hours of passenger platform time on the
18 transportation network company's driver platform.

19 (d) For each hour of earned paid sick time used, a driver shall
20 be paid the driver's average hourly compensation.

21 (e) A transportation network company shall establish an
22 accessible system for drivers to request and use earned paid sick
23 time. The system must be available to drivers via smartphone
24 application and online web portal.

25 (f) A driver may carry over up to 40 hours of unused earned paid
26 sick time to the next calendar year. If a driver carries over unused
27 earned paid sick time to the following year, accrual of earned paid
28 sick time in the subsequent year must be in addition to the hours
29 accrued in the previous year and carried over.

30 (g) A driver is entitled to use accrued earned paid sick time if
31 the driver has used the transportation network company's platform as
32 a driver within 90 calendar days preceding the driver's request to
33 use earned paid sick time.

34 (h) A driver is entitled to use earned paid sick time for the
35 following reasons:

36 (i) An absence resulting from the driver's mental or physical
37 illness, injury, or health condition; to accommodate the driver's
38 need for medical diagnosis, care, or treatment of a mental or
39 physical illness, injury, or health condition; or an employee's need
40 for preventive medical care;

1 (ii) To allow the driver to provide care for a family member with
2 a mental or physical illness, injury, or health condition; care of a
3 family member who needs medical diagnosis, care, or treatment of a
4 mental or physical illness, injury, or health condition; or care for
5 a family member who needs preventive medical care;

6 (iii) When the driver's child's school or place of care has been
7 closed by order of a public official for any health-related reason;

8 (iv) For absences for which an employee would be entitled for
9 leave under RCW 49.76.030; and

10 (v) During a deactivation or other status that prevents the
11 driver from performing network services on the transportation network
12 company's platform, unless the deactivation or status is due to a
13 verified allegation of sexual assault or physical assault perpetrated
14 by the driver.

15 (i) If a driver does not record any passenger platform time in a
16 transportation network company's driver platform for 365 or more
17 consecutive days, any unused earned paid sick time accrued up to that
18 point with that transportation network company is no longer valid or
19 recognized.

20 (j) Drivers may use accrued days of earned paid sick time in
21 increments of a minimum of four or more hours. Drivers are entitled
22 to request four or more hours of earned paid sick time for immediate
23 use, including consecutive days of use. Drivers are not entitled to
24 use more than eight hours of earned paid sick time within a single
25 calendar day.

26 (k) A transportation network company shall compensate a driver
27 for requested hours or days of earned paid sick time no later than 14
28 calendar days or the next regularly scheduled date of compensation
29 following the requested hours or days of earned paid sick time.

30 (l) A transportation network company shall not request or require
31 reasonable verification of a driver's qualifying illness except as
32 would be permitted to be requested of an employee under subsection
33 (1)(g) of this section. If a transportation network company requires
34 verification pursuant to this subsection, the transportation network
35 company must compensate the driver for the requested hours or days of
36 earned paid sick time no later than the driver's next regularly
37 scheduled date of compensation after satisfactory verification is
38 provided.

39 (m) If a driver accepts an offer of prearranged services for
40 compensation from a transportation network company during the four-

1 hour period or periods for which the driver requested earned paid
2 sick time, a transportation network company may determine that the
3 driver did not use earned paid sick time for an authorized purpose.

4 (n) A transportation network company shall provide each driver
5 with:

6 (i) Written notification of the current rate of average hourly
7 compensation while a passenger is in the vehicle during the most
8 recent calendar month for use of earned paid sick time;

9 (ii) An updated amount of accrued earned paid sick time since the
10 last notification;

11 (iii) Reduced earned paid sick time since the last notification;

12 (iv) Any unused earned paid sick time available for use; and

13 (v) Any amount that the transportation network company may
14 subtract from the driver's compensation for earned paid sick time.
15 The transportation network company shall provide this information to
16 the driver no less than monthly. The transportation network company
17 may choose a reasonable system for providing this notification,
18 including but not limited to: A pay stub; a weekly summary of
19 compensation information; or an online system where drivers can
20 access their own earned paid sick time information. A transportation
21 network company is not required to provide this information to a
22 driver if the driver has not worked any days since the last
23 notification.

24 (o) A transportation network company may not adopt or enforce any
25 policy that counts the use of earned paid sick time as an absence
26 that may lead to or result in any action that adversely affects the
27 driver's use of the transportation network.

28 (p) A transportation network company may not take any action
29 against a driver that adversely affects the driver's use of the
30 transportation network due to his or her exercise of any rights under
31 this subsection including the use of earned paid sick time.

32 (q) The department may adopt rules to implement this subsection.

33 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
34 preservation of the public peace, health, or safety, or support of
35 the state government and its existing public institutions, and takes
36 effect immediately.

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