

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 55 (Delegate B. Robinson)
Economic Matters

Labor and Employment - Sick Leave Policy - Requirement

This bill requires an employer to have a sick leave policy under which an employee of the employer earns a specified number of sick leave days each month based on the number of hours worked. The sick leave policy must contain a provision relating to sick leave abuse prevention by employees. An employer is defined as a person engaged in a business, industry, profession, trade, or other enterprise in the State, including a person who acts directly or indirectly in the interest of another employer.

Fiscal Summary

State Effect: None. The bill does not explicitly include the State in the definition of employers, so State agencies are not affected. Since the bill has no enforcement provisions, expenditures do not increase.

Local Effect: None. Local government employers are not explicitly included in the definition of employers so local governments are not affected.

Small Business Effect: Potential meaningful.

Analysis

Current Law: Maryland law does not require private-sector employers to provide employees with paid or unpaid sick leave.

Federal Family and Medical Leave Act of 1993 (FMLA)

FMLA requires covered employers to provide eligible employees with up to 12 work weeks of unpaid leave during any 12-month period under the following conditions:

- the birth and care of an employee's newborn child;
- the adoption or placement of a child with an employee for foster care;
- to care for an immediate family member (spouse, child, or parent) with a serious health condition;
- medical leave when the employee is unable to work due to a serious health condition; or
- any qualifying circumstance arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty."

Generally, an FMLA-covered employer is an entity engaged in commerce that employs more than 50 employees. Public agencies are considered to be covered employers regardless of the number of individuals they employ.

An eligible employee is an individual employed by a covered employer who has been employed for at least 12 months; however, these may be nonconsecutive months. Among other criteria, the individual must have been employed for at least 1,250 hours of service during the 12-month period.

Maryland Flexible Leave Act

Chapter 644 of 2008 (HB 40) requires a private-sector employer who provides paid leave to its employees to allow an employee to use earned paid leave to care for immediate family members, including a child, spouse, or parent, with an illness. An employer is prohibited from taking action against an employee who exercises the rights granted or against an employee who files a complaint, testifies against, or assists in an action brought against the employer for a violation of Chapter 644.

An employer is considered a person that employs 15 or more individuals and is engaged in a business, industry, profession, trade, or other enterprise in the State, including a person who acts directly or indirectly in the interest of another employer. State and local governments are not included.

Employees who earn more than one type of paid leave from their employers may elect the type and amount of paid leave to be used in caring for their immediate family members.

Background: According to the U.S. Bureau of Labor Statistics, 66% of workers in private industry businesses with 100 to 499 workers have paid sick leave. Private industry businesses with fewer than 100 workers provide 52% of workers with paid sick leave.

The Institute for Women's Policy Research reports 41% of employees do not have paid sick days in Maryland. Data from the 2008 National Health Interview Survey revealed that, when workers are limited to a maximum of 5 days of work loss, workers with paid sick days miss an average of 1.6 days annually for illness and injury, excluding maternity leave, compared with 1.4 days for those without paid sick days. The survey also found that 54% of all workers who are covered by paid sick leave plans do not take any days off for illness or injury in a given year.

Paid Sick Leave in Other States and Cities

Paid sick leave is mandated in Connecticut, San Francisco, Seattle, and the District of Columbia. In May 2011, the Connecticut state legislature passed legislation that mandates employers with 50 or more employees provide one hour of paid sick leave for each 40 hours worked by a service worker up to a maximum of 40 hours per calendar year. In the District of Columbia, full-time employees at businesses with 100 or more workers receive up to seven days of paid leave, employees at businesses with 25 to 99 workers receive up to five days of paid leave, and employees at businesses with 24 or fewer workers receive up to three days. Seattle employers must provide five, seven, or nine days of paid leave for employees, depending on employer size. In San Francisco, employees receive one hour of paid leave for every 30 hours worked, with a cap of five or nine days per year depending on employer size.

Small Business Effect: According to the U.S. Bureau of Labor Statistics, the average cost for sick leave per employee hour worked for private-sector employers was 23 cents as of March 2009. To the extent that mandatory sick leave increases the cost to an employer of hiring an employee, employers may experience increased costs. Businesses may also benefit by experiencing reduced turnover, increased productivity, and reduced spread of illnesses.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Institute for Women’s Policy Research; U.S. Bureau of Labor Statistics; City and County of San Francisco; City of Seattle; District of Columbia; Connecticut Department of Labor; Department of Labor, Licensing, and Regulation; Department of Legislative Services

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