

**HB0001/707175/1**

BY: Finance Committee

AMENDMENTS TO HOUSE BILL 1  
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 4, after “leave;” insert “providing that, except under certain circumstances, certain employees of a unit of State or local government are subject to certain provisions of the unit’s laws, regulations, policies, and procedures under certain circumstances; prohibiting an employer from being required to pay a tipped employee more than a certain wage for earned sick and safe leave;”.

On page 2, in line 6, after “offer;” insert “providing that an employer is not required to consent to a certain request under certain circumstances;”; in line 8, strike “or allowing an employee to work certain hours or shifts”; in line 10, after “leave;” insert “requiring an employer to offer a certain employee employed in the restaurant industry the employee’s base rate of pay for the employee’s absence, except under certain circumstances; authorizing an employer, in lieu of offering to pay a certain employee the employee’s base rate of pay, to offer an additional shift of the same number of hours within a certain time frame; authorizing an employer to deduct accrued earned sick and safe leave for leave taken under certain circumstances; authorizing an employee to take earned sick and safe leave in certain increments of time, subject to a certain limitation;”; in line 15, after “notice;” insert “requiring the Commissioner to develop a certain model sick and safe leave policy for use by certain employers for certain purposes; requiring the Commissioner to provide technical assistance to certain employers under certain circumstances; requiring the Department of Labor, Licensing, and Regulation to post a certain notice and model on a certain Web site in a certain format;”; in line 17, after “a” insert “rebuttable”; in line 18, after “circumstances;” insert “prohibiting an employer from being assessed a certain civil penalty under certain circumstances; providing for the liability of certain payroll service providers under certain circumstances;”; in line 25, strike “requiring” and substitute “authorizing”; and in line 35, after “employers;”

(Over)

insert “authorizing certain jurisdictions to amend certain sick and safe leave laws enacted before a certain date;”.

AMENDMENT NO. 2

On page 4, in line 7, strike “PAID”; in line 14, strike “OR”; and in line 16, after “ARTICLE” insert “;

**(5) IS EMPLOYED BY A TEMPORARY SERVICES AGENCY TO PROVIDE TEMPORARY STAFFING SERVICES TO ANOTHER PERSON IF THE TEMPORARY SERVICES AGENCY DOES NOT HAVE DAY-TO-DAY CONTROL OVER THE WORK ASSIGNMENTS AND SUPERVISION OF THE INDIVIDUAL WHILE THE INDIVIDUAL IS PROVIDING THE TEMPORARY STAFFING SERVICES; OR**

**(6) IS DIRECTLY EMPLOYED BY AN EMPLOYMENT AGENCY TO PROVIDE PART-TIME OR TEMPORARY SERVICES TO ANOTHER PERSON**”.

On page 5, in line 27, after “(A)” insert “IN THIS SECTION, “EXISTING PAID LEAVE” INCLUDES:

- (1) VACATION DAYS;**
- (2) SICK DAYS;**
- (3) SHORT-TERM DISABILITY BENEFITS;**
- (4) FLOATING HOLIDAYS;**
- (5) PARENTAL LEAVE; AND**

**(6) OTHER PAID TIME OFF THAT MAY BE USED UNDER THE TERMS AND CONDITIONS AS PAID SICK AND SAFE LEAVE.**

**(B)**”.

On page 6, in line 5, after “IF” insert “:

**(I)**”;

in line 7, after the semicolon, insert “**OR**

**(II) THE PAID LEAVE POLICY DOES NOT REDUCE EMPLOYEE COMPENSATION FOR AN ABSENCE DUE TO SICK OR SAFE LEAVE;**”;

in lines 20 and 27, strike “**(B)**” and “**(C)**”, respectively, and substitute “**(C)**” and “**(D)**”, respectively; in line 20, strike “**(A)(2)**” and substitute “**(B)(2)**”; in line 27, strike “**THIS**” and substitute “**(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS**”; after line 29, insert:

**“(2) THIS SUBSECTION DOES NOT PREEMPT A LOCAL JURISDICTION FROM AMENDING A LAW THAT WAS ENACTED BEFORE JANUARY 1, 2017, AND REGULATES SICK AND SAFE LEAVE PROVIDED BY AN EMPLOYER.”;**

in line 32, strike “**8**” and substitute “**12**”; and in line 33, strike “**OR**”.

On page 7, in line 4, after “**TERMS**” insert “**; OR**

**(3) (I) IS CALLED TO WORK BY THE EMPLOYER ON AN AS-NEEDED BASIS IN A HEALTH OR HUMAN SERVICES INDUSTRY;**

(Over)

(II) CAN REJECT OR ACCEPT THE SHIFT OFFERED BY THE EMPLOYER;

(III) IS NOT GUARANTEED TO BE CALLED ON TO WORK BY THE EMPLOYER; AND

(IV) IS NOT EMPLOYED BY A TEMPORARY STAFFING AGENCY”;

after line 14, insert:

“(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF A UNIT OF STATE OR LOCAL GOVERNMENT’S SICK LEAVE ACCRUAL AND USE REQUIREMENTS MEET OR EXCEED THE SICK AND SAFE LEAVE PROVIDED FOR UNDER THIS SUBTITLE, EMPLOYEES OF THE UNIT OF STATE OR LOCAL GOVERNMENT WHO ARE PART OF THE UNIT’S PERSONNEL SYSTEM ARE SUBJECT TO THE UNIT’S LAWS, REGULATIONS, POLICIES, AND PROCEDURES PROVIDING FOR:

(I) ACCRUAL AND USE OF SICK LEAVE;

(II) GRIEVANCES; AND

(III) DISCIPLINARY ACTIONS.

(2) EMPLOYEES OF A UNIT OF STATE GOVERNMENT THAT ARE ENTITLED TO SICK AND SAFE LEAVE UNDER THIS SUBTITLE AND WHO ARE NOT COVERED BY THE UNIT’S SICK LEAVE AND ACCRUAL AND USE REQUIREMENTS ARE SUBJECT TO § 3-1308 OF THIS SUBTITLE.”;

in line 16, strike “AN” and substitute “**(I)** **SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, AN**”; in line 19, strike “**(2)**” and substitute “**(II)**”; in the same line, after “SHALL” insert “**AT LEAST**”; after line 20, insert:

**“(III) AN EMPLOYER MAY NOT BE REQUIRED TO PAY A TIPPED EMPLOYEE MORE THAN THE APPLICABLE MINIMUM WAGE FOR EARNED SICK AND SAFE LEAVE.”**;

and in line 21, strike “**(3)**” and substitute “**(2)**”.

On page 8, in lines 7, 9, 11, and 12, strike “**56**”, “**80**”, “**80**”, and “**90**”, respectively, and substitute “**40**”, “**64**”, “**64**”, and “**106**”, respectively; strike beginning with “OR” in line 13 down through “SHORTER” in line 14; and in lines 17, 19, and 24, strike “**16**”, “**16**”, and “**17.3**”, respectively, and substitute “**24**”, “**24**”, and “**26**”, respectively.

### AMENDMENT NO. 3

On page 9, in line 17, strike “**56**” and substitute “**40**”; in line 20, after “UNUSED” insert “**EARNED**”; strike beginning with “EMPLOYMENT” in line 25 down through “GRANT” in line 26 and substitute “**EMPLOYEE IS EMPLOYED BY A NONPROFIT ENTITY OR A GOVERNMENTAL UNIT IN ACCORDANCE WITH A GRANT, THE DURATION OF WHICH IS LIMITED TO 1 YEAR AND IS NOT SUBJECT TO RENEWAL**”; and in line 27, strike “**9 MONTHS**” and substitute “**37 WEEKS**”.

On page 10, in line 29, strike the second “OR”; after line 29, insert:

**“(4) FOR MATERNITY OR PATERNITY LEAVE; OR”**;

and in line 30, strike “**(4)**” and substitute “**(5)**”.

On page 12, in line 4, after "TITLE 7" insert "OR TITLE 10"; in line 5, after "DISABLED" insert "OR MENTALLY ILL"; and in line 12, after "DISABILITY" insert "OR MENTAL ILLNESS".

AMENDMENT NO. 4

On page 13, in line 1, strike "AN" and substitute "EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN"; in line 4, strike "EMPLOYEE" and substitute "EMPLOYER"; and in the same line, strike "BE REQUIRED" and substitute "REQUIRE AN EMPLOYEE"; in line 15, strike "FOR MORE THAN TWO CONSECUTIVE SCHEDULED SHIFTS"; and in line 17, after "SECTION" insert "IF:

(I) THE LEAVE WAS USED FOR MORE THAN TWO CONSECUTIVE SCHEDULED SHIFTS; OR

(II) 1. THE EMPLOYEE USED THE LEAVE DURING THE PERIOD BETWEEN THE FIRST 107 AND 120 CALENDAR DAYS, BOTH INCLUSIVE, THAT THE EMPLOYEE WAS EMPLOYED BY THE EMPLOYER; AND

2. THE EMPLOYEE AGREED TO PROVIDE VERIFICATION UNDER TERMS MUTUALLY AGREED TO BY THE EMPLOYER AND THE EMPLOYEE AT THE TIME THE EMPLOYEE WAS HIRED BY THE EMPLOYER".

On page 14, in line 1, after "PROHIBITION" insert ":

(I);

after line 3, insert:

**“(II) IN § 3-1310 OF THIS SUBTITLE AGAINST AN EMPLOYEE MAKING A COMPLAINT, BRINGING AN ACTION, OR TESTIFYING IN AN ACTION IN BAD FAITH; AND”;**

in line 8, after “SHALL” insert “:

**(1)”;**

in line 9, after “NOTICE” insert “AT NO CHARGE TO THE EMPLOYER”; in line 10, after “SECTION” insert “;

**(2) DEVELOP A MODEL SICK AND SAFE LEAVE POLICY THAT AN EMPLOYER MAY USE AS A SICK AND SAFE LEAVE POLICY IN AN EMPLOYEE HANDBOOK OR OTHER WRITTEN GUIDANCE TO EMPLOYEES CONCERNING EMPLOYEE BENEFITS OR LEAVE PROVIDED BY THE EMPLOYER; AND**

**(3) PROVIDE TECHNICAL ASSISTANCE TO AN EMPLOYER, IF AN EMPLOYER REQUESTS ASSISTANCE REGARDING IMPLEMENTING THE PROVISIONS OF THIS SUBTITLE.**

**(D) THE DEPARTMENT SHALL POST THE NOTICE AND MODEL SICK AND SAFE LEAVE POLICY CREATED AND DEVELOPED UNDER SUBSECTION (C)(1) AND (2) OF THIS SECTION ON THE DEPARTMENT’S WEB SITE IN A DOWNLOADABLE FORMAT”;**

in line 19, after “(C)” insert “(1)”; in line 21, strike “SHALL BE PRESUMED TO HAVE” and substitute “CREATES A REBUTTABLE PRESUMPTION THAT THE EMPLOYER”; and after line 21, insert:

(Over)

“(2) (I) AN EMPLOYER MAY NOT BE ASSESSED A CIVIL PENALTY BY THE COMMISSIONER UNDER THIS SUBTITLE DUE TO AN UNINTENTIONAL PAYROLL ERROR OR WRITTEN NOTICE ERROR CAUSED BY A THIRD-PARTY PAYROLL SERVICE PROVIDER WITH WHOM THE EMPLOYER CONTRACTED FOR SERVICES.

“(II) IF AN EMPLOYER CONTRACTS WITH A THIRD-PARTY PAYROLL SERVICE PROVIDER AND THE EMPLOYER IS FOUND IN VIOLATION OF THIS SUBTITLE AS A RESULT OF THE PAYROLL SERVICE PROVIDER’S ACTIONS, THE PAYROLL SERVICE PROVIDER IS LIABLE FOR ANY PENALTIES AND COSTS INCURRED BY THE EMPLOYER.”.

AMENDMENT NO. 5

On page 5, in line 14, after “(I)” insert ““RESTAURANT” MEANS AN ESTABLISHMENT THAT:

(1) ACCOMMODATES THE PUBLIC;

(2) IS EQUIPPED WITH A DINING ROOM WITH FACILITIES FOR PREPARING AND SERVING REGULAR MEALS; AND

(3) HAS AVERAGE DAILY RECEIPTS FROM THE SALE OF FOOD THAT EXCEED THE AVERAGE DAILY RECEIPTS FROM THE SALE OF ALCOHOLIC BEVERAGES.

(J)”;

and in lines 21 and 23, strike “(J)” and “(K)”, respectively, and substitute “(K)” and “(L)”, respectively.



On page 12, in line 17, after “(1)” insert “(I)”; in line 20, after “PERIOD” insert “, OR THE FOLLOWING PAY PERIOD,”; in lines 22 and 24, strike “(2)” and “(3)”, respectively, and substitute “(II)” and “(III)”, respectively; in line 25, strike “PARAGRAPH (1) OF THIS SUBSECTION” and substitute “SUBPARAGRAPH (I) OF THIS PARAGRAPH”; in the same line, strike the colon; strike in their entirety lines 26 through 30, inclusive; in line 31, strike “(III)”; and after line 32, insert:

“(2) (I) THIS PARAGRAPH APPLIES ONLY TO AN EMPLOYEE EMPLOYED IN THE RESTAURANT INDUSTRY WHO IS COMPENSATED AS A TIPPED EMPLOYEE UNDER § 3-419 OF THIS TITLE AND WHO WOULD BE ENTITLED TO PAID LEAVE UNDER § 3-1304 OF THIS SUBTITLE IF THE EMPLOYEE:

1. NEEDS TO TAKE EARNED SICK AND SAFE LEAVE;
2. PREFERS AND IS ABLE TO WORK ADDITIONAL HOURS OR TRADE SHIFTS WITH ANOTHER EMPLOYEE IN THE SAME PAY PERIOD OR THE FOLLOWING PAY PERIOD; AND
3. REQUIRES THE EMPLOYER TO ARRANGE COVERAGE OF THE SHIFT.

(II) IF THE EMPLOYER IS CONTACTED TO ARRANGE THE COVERAGE OF A SHIFT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE EMPLOYER SHALL HAVE THE DISCRETION TO OFFER THE EMPLOYEE A CHOICE OF:

1. BEING PAID THE MINIMUM WAGE REQUIRED UNDER § 3-413 OF THIS TITLE FOR THE EMPLOYEE’S ABSENCE; OR

(Over)

2. WORKING AN EQUIVALENT SHIFT OF THE SAME NUMBER OF HOURS IN THE SAME PAY PERIOD OR THE FOLLOWING PAY PERIOD.

(III) AN EMPLOYER THAT DOES NOT OFFER THE TIPPED EMPLOYEE THE CHOICE UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH SHALL PAY TO THE EMPLOYEE THE MINIMUM WAGE REQUIRED UNDER § 3-413 OF THIS TITLE FOR THE USE OF THE EARNED SICK AND SAFE LEAVE.

(IV) AN EMPLOYER MAY DEDUCT AN ABSENCE TAKEN UNDER THIS PARAGRAPH FROM THE EMPLOYEE'S ACCRUED EARNED SICK AND SAFE LEAVE.

(3) AN EMPLOYER IS NOT REQUIRED TO CONSENT TO AN EMPLOYEE'S REQUEST TO WORK ADDITIONAL HOURS OR TRADE SHIFTS IF THE ADDITIONAL HOURS OR TRADE IN SHIFTS WOULD RESULT IN THE EMPLOYER BEING REQUIRED TO PAY OVERTIME TO THE EMPLOYEE."

AMENDMENT NO. 6

On page 15, in line 31, strike "SHALL" and substitute "MAY".

On page 17, after line 19, insert:

"SECTION 3. AND BE IT FURTHER ENACTED, That this Act may not be construed to preempt any federal law or regulation governing employees subject to federal law or regulations.";

and in line 20, strike "3." and substitute "4.".