

HB0580/233899/1

BY: Economic Matters Committee

AMENDMENTS TO HOUSE BILL 580

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Zucker” and substitute “Zucker, and Queen”; in line 12, after “purposes;” insert “authorizing an employer to require an employee to provide certain notice under certain circumstances;”; in line 13, after “employer;” insert “authorizing an employer to deny a request for leave under certain circumstances;”; in line 15, after “time;” insert “authorizing an employee to work additional hours or trade shifts with another employee instead of taking earned sick and safe leave, under certain circumstances; providing that an employee is not required to accept a certain offer; prohibiting an employer, under certain circumstances, from being required to pay more than a certain rate or allowing an employee to work certain hours or shifts; prohibiting an employer, under certain circumstances, from deducting a certain absence from a certain employee’s earned sick and safe leave;”; and in line 16, strike “documentation” and substitute “verification”.

On page 2, in line 3, after “circumstances;” insert “requiring and”; in line 4, strike “determines certain provisions of this Act have been violated;” and substitute “receives a certain written complaint; specifying the contents that are required to be included and may be included in a certain order issued by the Commissioner; subjecting certain acts to certain hearing and notice requirements; requiring an employer to comply with a certain order within a certain time period;”; in line 6, after “Act” insert “within a certain time period”; in the same line, strike “authorizing” and substitute “requiring”; in line 14, after “Act;” insert “providing that this Act preempts the authority of a local jurisdiction to enact a law on or after a certain date that provides for certain sick and safe leave provided by certain employers;”; and in line 15, after “Act;” insert “providing for a delayed effective date;”.

AMENDMENT NO. 2

On page 3, in line 26, strike “OR”; and in line 27, after “ARTICLE” insert “;

(Over)

(3) IS UNDER THE AGE OF 18 YEARS BEFORE THE BEGINNING OF THE YEAR; OR

(4) IS EMPLOYED IN THE AGRICULTURAL SECTOR ON AN AGRICULTURAL OPERATION UNDER § 5-403(A) OF THE COURTS ARTICLE".

On page 6, in line 4, before "THIS" insert "(A)"; and after line 10, insert:

"(B) FOR THE PURPOSE OF SUBSECTION (A)(2)(I) OF THIS SECTION, AN EMPLOYEE WHO IS EMPLOYED IN THE CONSTRUCTION INDUSTRY DOES NOT INCLUDE AN EMPLOYEE EMPLOYED AS:

(1) A JANITOR;

(2) A BUILDING CLEANER;

(3) A BUILDING SECURITY OFFICER;

(4) A CONCIERGE;

(5) A DOORPERSON;

(6) A HANDYPERSON; OR

(7) A BUILDING SUPERINTENDENT."

AMENDMENT NO. 3

On page 6, in line 12, strike “MORE THAN NINE” and substitute “15 OR MORE”; and in line 15, strike “NINE EMPLOYEES OR LESS” and substitute “14 OR FEWER EMPLOYEES”.

AMENDMENT NO. 4

On page 9, in line 20, after “(B)” insert “(1)”; in line 21, strike “AN EMPLOYEE SHALL MAKE A GOOD FAITH EFFORT TO PROVIDE THE” and substitute “AN”; and strike beginning with “WITH” in line 22 down through “EMPLOYER” in line 23 and substitute “MAY REQUIRE AN EMPLOYEE TO PROVIDE REASONABLE ADVANCE NOTICE OF NOT MORE THAN 7 DAYS BEFORE THE DATE THE EARNED SICK AND SAFE LEAVE WOULD BEGIN.”

(2) IF THE NEED TO USE EARNED SICK AND SAFE LEAVE IS NOT FORESEEABLE, AN EMPLOYEE SHALL:

(I) PROVIDE NOTICE TO AN EMPLOYER AS SOON AS PRACTICABLE; AND

(II) GENERALLY COMPLY WITH THE EMPLOYER’S NOTICE OR PROCEDURAL REQUIREMENTS FOR REQUESTING OR REPORTING OTHER LEAVE, IF THOSE REQUIREMENTS DO NOT INTERFERE WITH THE EMPLOYEE’S ABILITY TO USE EARNED SICK AND SAFE LEAVE.

(3) AN EMPLOYER MAY DENY A REQUEST TO TAKE EARNED SICK AND SAFE LEAVE IF:

(I) AN EMPLOYEE FAILS TO PROVIDE THE NOTICE REQUIRED UNDER PARAGRAPHS (1) OR (2) OF THIS SUBSECTION; AND

(II) THE EMPLOYEE’S ABSENCE WILL CAUSE A DISRUPTION TO THE EMPLOYER”.

On page 10, in line 20, after “(G)” insert “(1)”; in line 22, strike “REASONABLE DOCUMENTATION TO VERIFY” and substitute “VERIFICATION”; and after line 23, insert:

“(2) IF AN EMPLOYEE FAILS OR REFUSES TO PROVIDE VERIFICATION AS REQUIRED BY AN EMPLOYER UNDER SUBSECTION (A) OF THIS SECTION, THE EMPLOYER MAY DENY A SUBSEQUENT REQUEST TO TAKE EARNED SICK AND SAFE LEAVE FOR THE SAME REASON.”

AMENDMENT NO. 5

On page 10, in line 16, after “(F)” insert “(1)”; and after line 19, insert:

“(2) AN EMPLOYER MAY SATISFY THE REQUIREMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION BY PROVIDING AN ONLINE SYSTEM THROUGH WHICH AN EMPLOYEE MAY ASCERTAIN THE BALANCE OF THE EMPLOYEE’S AVAILABLE EARNED SICK AND SAFE LEAVE.”

On page 11, in line 24, strike the second “SECTION” and substitute “SUBTITLE”.

AMENDMENT NO. 6

On page 5, in line 21, after “(3)” insert “EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,”; in line 23, strike “OR”; and in line 25, after “ARTICLE” insert “; OR”

(5) PROHIBIT AN EMPLOYER FROM ADOPTING A POLICY THAT LIMITS AN EMPLOYEE TO USING EARNED SICK AND SAFE LEAVE ONLY FOR THE REASONS LISTED IN § 3-1305(A) OF THIS SUBTITLE”.

On page 6, after line 2, insert:

“(C) THIS SUBTITLE PREEMPTS THE AUTHORITY OF A LOCAL JURISDICTION TO ENACT A LAW ON OR AFTER JANUARY 1, 2016, THAT REGULATES SICK AND SAFE LEAVE PROVIDED BY AN EMPLOYER OTHER THAN THE LOCAL JURISDICTION.”

AMENDMENT NO. 7

On page 7, in line 6, after “90” insert “CALENDAR”; in the same line, after “DAYS” insert “THE EMPLOYEE WORKS FOR THE EMPLOYER”; and in line 7, strike “THE EMPLOYEE IS EMPLOYED”.

AMENDMENT NO. 8

On page 7, in line 24, strike “PARAGRAPH (2)” and substitute “PARAGRAPHS (2) AND (3)”; and after line 30, insert:

“(3) AN EMPLOYER MAY NOT BE REQUIRED TO ALLOW AN EMPLOYEE TO CARRY OVER UNUSED SICK AND SAFE LEAVE UNDER PARAGRAPH (1) OF THIS SUBSECTION IF:

(I) THE EMPLOYER AWARDS THE EMPLOYEE THE FULL AMOUNT OF EARNED SICK AND SAFE LEAVE AT THE BEGINNING OF EACH YEAR UNDER SUBSECTION (D) OF THIS SECTION; OR

(II) THE EMPLOYMENT OF THE EMPLOYEE IS CONTINGENT ON THE EMPLOYER RECEIVING A GRANT.”

AMENDMENT NO. 9

On page 8, in line 1, strike “12” and substitute “9”.

(Over)

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On page 10, in line 7, after “EMPLOYEE” insert “MORE THAN THE EMPLOYEE’S BASE RATE OF PAY”; in line 8, strike “OR”; and in line 9, after “(II)” insert “BE REQUIRED TO ALLOW AN EMPLOYEE TO WORK ADDITIONAL HOURS OR SHIFTS THAT WOULD RESULT IN THE EMPLOYER BEING REQUIRED TO PAY OVERTIME TO THE EMPLOYEE; OR

(III)”.

AMENDMENT NO. 10

On page 8, in line 23, strike “PROVIDE AND”; and in line 24, strike “USE” and substitute “RETAIN”.

On page 9, strike beginning with “NEEDED” in line 11 down through “BY” in line 12 and substitute “RELATED TO”; and in line 15, after “SERVICES” insert “OR PROCEEDINGS”.

AMENDMENT NO. 11

On pages 11 and 12, strike in their entirety the lines beginning with line 26 on page 11 through line 22 on page 12, inclusive.

On page 11, after line 25, insert:

“(A) IF AN EMPLOYEE BELIEVES THAT AN EMPLOYER HAS VIOLATED THIS SUBTITLE, THE EMPLOYEE MAY FILE A WRITTEN COMPLAINT WITH THE COMMISSIONER.

“(B) (1) WITHIN 90 DAYS AFTER THE RECEIPT OF A WRITTEN COMPLAINT, THE COMMISSIONER SHALL CONDUCT AN INVESTIGATION AND ATTEMPT TO RESOLVE THE ISSUE INFORMALLY THROUGH MEDIATION.

(2) (I) IF THE COMMISSIONER IS UNABLE TO RESOLVE AN ISSUE THROUGH MEDIATION DURING THE PERIOD STATED IN PARAGRAPH (1) OF THIS SUBSECTION AND THE COMMISSIONER DETERMINES THAT AN EMPLOYER HAS VIOLATED THIS SUBTITLE, THE COMMISSIONER SHALL ISSUE AN ORDER.

(II) AN ORDER ISSUED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH:

1. SHALL DESCRIBE THE VIOLATION;
2. SHALL DIRECT THE PAYMENT OF THE FULL MONETARY VALUE OF ANY UNPAID EARNED SICK AND SAFE LEAVE AND ANY ACTUAL ECONOMIC DAMAGES;
3. MAY, IN THE COMMISSIONER'S DISCRETION, DIRECT THE PAYMENT OF AN ADDITIONAL AMOUNT UP TO THREE TIMES THE VALUE OF THE EMPLOYEE'S HOURLY WAGE FOR EACH VIOLATION; AND
4. MAY, IN THE COMMISSIONER'S DISCRETION, ASSESS A CIVIL PENALTY OF UP TO \$1,000 FOR EACH EMPLOYEE FOR WHOM THE EMPLOYER IS NOT IN COMPLIANCE WITH THIS SUBTITLE.

(3) THE ACTIONS TAKEN UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION ARE SUBJECT TO THE HEARING AND NOTICE REQUIREMENTS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(C) (1) WITHIN 30 DAYS AFTER THE COMMISSIONER ISSUES AN ORDER, AN EMPLOYER SHALL COMPLY WITH THE ORDER.

(2) IF AN EMPLOYER DOES NOT COMPLY WITH AN ORDER WITHIN THE TIME PERIOD STATED IN PARAGRAPH (1) OF THIS SUBSECTION:

(I) THE COMMISSIONER MAY:

1. WITH THE WRITTEN CONSENT OF THE EMPLOYEE, ASK THE ATTORNEY GENERAL TO BRING AN ACTION ON BEHALF OF THE EMPLOYEE IN THE COUNTY WHERE THE EMPLOYER IS LOCATED; OR

2. BRING AN ACTION TO ENFORCE THE ORDER FOR CIVIL PENALTY IN THE COUNTY WHERE THE EMPLOYER IS LOCATED; AND

(II) WITHIN 3 YEARS AFTER THE DATE OF THE ORDER, AN EMPLOYEE MAY BRING AN ACTION TO ENFORCE THE ORDER IN THE COUNTY WHERE THE EMPLOYER IS LOCATED.

(3) IF AN EMPLOYEE PREVAILS IN AN ACTION BROUGHT UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION TO ENFORCE AN ORDER, THE COURT SHALL AWARD:

(I) THREE TIMES THE VALUE OF THE EMPLOYEE'S UNPAID EARNED SICK AND SAFE LEAVE;

(II) PUNITIVE DAMAGES IN AN AMOUNT TO BE DETERMINED BY THE COURT;

(III) REASONABLE COUNSEL FEES AND OTHER COSTS;

(IV) INJUNCTIVE RELIEF, IF APPROPRIATE; AND

(V) ANY OTHER RELIEF THAT THE COURT DEEMS APPROPRIATE.”.

AMENDMENT NO. 12

On page 7, in lines 21 and 22, in each instance, strike “**OCTOBER 1, 2016**” and substitute “**JANUARY 1, 2017**”.

On page 13, after line 28, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any bona fide collective bargaining agreement entered into before June 1, 2016, for the duration of the contract term, excluding any extensions, options to extend, or renewals of the term of the original agreement.”.

On page 14, in line 1, strike “2.” and substitute “3.”; and in line 2, strike “October 1, 2016” and substitute “January 1, 2017”.