Article - Labor and Employment

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§3–1305.

(a) An employer shall allow an employee to use earned sick and safe leave:

(1) to care for or treat the employee's mental or physical illness, injury, or condition;

(2) to obtain preventive medical care for the employee or employee's family member;

(3) to care for a family member with a mental or physical illness, injury, or condition;

(4) for maternity or paternity leave; or

(5) if:

(i) the absence from work is necessary due to domestic violence, sexual assault, or stalking committed against the employee or the employee's family member; and

(ii) the leave is being used:

1. by the employee to obtain for the employee or the employee's family member:

A. medical or mental health attention that is related to the domestic violence, sexual assault, or stalking;

B. services from a victim services organization related to the domestic violence, sexual assault, or stalking; or

C. legal services or proceedings related to or resulting from the domestic violence, sexual assault, or stalking; or

2. during the time that the employee has temporarily relocated due to the domestic violence, sexual assault, or stalking.

(b) (1) If the need to use earned sick and safe leave is foreseeable, an employer 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) 1. an employee fails to provide the notice required under paragraph (1) or (2) of this subsection; and

2. the employee's absence will cause a disruption to the employer; or

(ii) 1. the employer is a private employer licensed under Title 7 or Title 10 of the Health – General Article to provide services to developmentally disabled or mentally ill individuals;

2. the need to use earned sick and safe leave is foreseeable;

3. after exercising reasonable efforts, the employer is unable to provide a suitable replacement employee; and

4. the employee's absence will cause a disruption of service to at least one individual with a developmental disability or mental illness.

(c) An employer may not require that an employee who is requesting earned sick and safe leave search for or find an individual to work in the employee's stead during the time the employee is taking the leave.

(d) (1) (i) Instead of taking earned sick and safe leave under this section, by mutual consent of the employer and employee, an employee may work additional hours or trade shifts with another employee during a pay period, or the following pay period, to make up work hours that the employee took off for which the employee could have taken earned sick and safe leave.

(ii) An employee is not required to offer or to accept an offer of additional work hours or a trade in shifts.

(iii) If an employee works additional hours or trades shifts under subparagraph (i) of this paragraph, the employer may not deduct the absence from the employee's accrued earned sick and safe leave.

(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

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.

(e) (1) Except as provided in paragraph (2) of this subsection, an employee may take earned sick and safe leave in the smallest increment that the employer's payroll system uses to account for absences or use of the employee's work time.

(2) An employer may require an employee to take earned sick and safe leave in an increment not exceeding 4 hours.

(f) (1) When wages are paid to an employee, the employer shall provide in writing by any reasonable method a statement regarding the amount of earned sick and safe leave that is available for use by the employee.

(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.

(g) (1) An employer may require an employee who uses earned sick and safe leave to provide verification that the leave was used appropriately under subsection (a) of this section 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.

(2) If an employee fails or refuses to provide verification as required by an employer under paragraph (1) of this subsection, the employer may deny a subsequent request to take earned sick and safe leave for the same reason.

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