

Senate Bill No. 196—Senators Ford, Woodhouse, Spearman, Ratti, Farley; Atkinson, Cancela, Cannizzaro, Denis, Manendo, Parks and Segerblom

Joint Sponsors: Assemblymen Frierson, Benitez-Thompson, Yeager, Carrillo, Elliot Anderson; Araujo, Bilbray-Axelrod, Cohen, Daly, Diaz, Flores, Fumo, Jauregui, Joiner, Neal, Spiegel, Sprinkle, Swank and Thompson

CHAPTER.....

AN ACT relating to employment; requiring certain employers in private employment to provide paid sick leave to each full-time employee of the employer under certain circumstances; providing an exception; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires employers in private employment to pay employees certain minimum compensation and to provide certain benefits, including overtime compensation and meal and rest breaks. (NRS 608.018, 608.019, 608.250) **Section 1** of this bill requires a private employer who has 25 or more employees in private employment in this State and who has conducted business in this State for at least 12 consecutive months to, at a minimum, provide full-time employees paid sick leave that must be earned at a rate of not less than 1 hour per 40 hours worked and may be used by an employee beginning on the first anniversary date of his or her employment. **Section 1** sets forth that an employee is a full-time employee of the employer if the employee works at least 1,600 hours for the employer during a 12-month period beginning on the date the employee is hired. **Section 1** also provides that an employer may: (1) limit the use of the paid sick leave to 40 hours per year; and (2) set a minimum increment that an employee may use the accrued sick leave at any one time, not to exceed 2 hours. **Section 1** additionally requires an employer to maintain records of the accrual and use of paid sick leave for each employee for a 3-year period and to make those records available for inspection by the Labor Commissioner. **Section 1** requires the Labor Commissioner to prepare a bulletin setting forth these benefits and requires employers to post the bulletin in the workplace. **Section 1**: (1) provides an exception for employers who provide at least an equivalent amount of sick leave or paid time off; and (2) excludes from the requirements of this bill certain employees who perform work on an occasional or irregular basis, perform physical work at a construction site that results in the construction, alteration or destruction involved in the construction project, perform work for a hospital, a facility for long-term care or a provider of health care on an occasional or irregular basis or work less than 12 consecutive months for the employer. Finally, **section 1** prohibits this bill from being interpreted as allowing an employee to be compensated more than once for the same hour of leave.

Existing law requires an employer to establish and maintain records of wages for the benefit of his or her employees. (NRS 608.115) **Section 1.5** of this bill requires this record to include the total hours of sick leave available for use by each employee.

Section 2 of this bill requires the Labor Commissioner to enforce the provisions of **section 1**, and **section 3** of this bill makes a violation of the provisions of **section 1** a misdemeanor and authorizes the Commissioner to impose,



in addition to any other remedy or penalty, a penalty of up to \$5,000 for each violation. (NRS 608.180, 608.195)

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 608 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, every employer who has conducted business in this State for at least 12 consecutive months shall provide paid sick leave to each full-time employee of the employer as follows:

(a) A full-time employee is entitled to accrue paid sick leave at a rate of not less than 1 hour for every 40 hours worked by the full-time employee.

(b) Accrued paid sick leave must carry over for each employee between his or her years of employment, not to exceed a total accrual of 80 hours of accrued paid sick leave.

(c) Paid sick leave must be compensated at the rate of pay at which the employee is compensated at the time such leave is taken, and paid on the same payday as the hours taken are normally paid. For the purposes of this calculation, the compensation rate for an employee who is paid by salary, commission, piece rate or a method other than an hourly wage must be calculated by dividing the employee's total wages paid for the immediately preceding 90 days by the number of hours worked during that period.

(d) An employer may limit the amount of paid sick leave an employee uses to 40 hours per year.

(e) An employer may set a minimum increment of paid sick leave, not to exceed 2 hours, that an employee may use at any one time.

(f) An employer is not required to compensate an employee for any accrued unused sick leave upon separation from employment.

2. An employee of an employer may use accrued sick leave as follows:

(a) An employee must be allowed to use accrued sick leave beginning on the first anniversary date of his or her employment.

(b) An employee may use accrued paid sick leave:

(1) For the diagnosis, care or treatment of an existing health condition of, or preventive care for, the employee or a member of the employee's family or household; or



(2) To obtain counseling or assistance or to participate in any court proceedings related to domestic violence or sexual assault.

(c) To the extent possible, an employee shall give reasonable advance notice to his or her employer of the need to use accrued paid sick leave.

(d) An employer shall not:

(1) Deny an employee the right to use accrued sick leave in accordance with the conditions of this section;

(2) Require an employee to find a replacement worker as a condition of using sick leave; or

(3) Retaliate against an employee for using sick leave.

3. The Labor Commissioner shall prepare a bulletin which clearly sets forth the benefits created by this section. The Labor Commissioner shall post the bulletin on the Internet website maintained by the Office of Labor Commissioner, if any, and shall require all employers to post the bulletin in a conspicuous location in each workplace maintained by the employer. The bulletin may be included in any printed abstract posted by the employer pursuant to NRS 608.013.

4. An employer shall maintain records of the accrual and use of paid sick leave for each employee for a 3-year period following the entry of such information in the record and, upon request, shall make those records available for inspection by the Labor Commissioner.

5. The provisions of this section do not:

(a) Limit or abridge any other rights, remedies or procedures available under the law.

(b) Negate any other rights, remedies or procedures available to an aggrieved party.

(c) Prohibit, preempt or discourage any contract or other agreement that provides a more generous sick leave benefit or paid time off benefit.

(d) Prohibit an employer from creating and enforcing a policy that prohibits the improper use of paid sick leave.

6. This section does not apply to:

(a) An employer who, by contract, policy or other agreement, provides full-time employees with a paid sick leave policy or a paid time off policy that provides for at least 40 hours of paid leave per year.

(b) An employee who:

(1) Is a day or temporary worker who performs work on an occasional or irregular basis for a limited period of time;



(2) Actually performs physical work at a construction site that results in the construction, alteration or destruction involved in the construction project; or

(3) Performs work for a hospital, a facility for long-term care or a provider of health care on an occasional or irregular basis as needed by the hospital, facility for long-term care or provider of health care.

(c) An employee who works less than 12 consecutive months for his or her employer.

7. The provisions of this section must not be interpreted to allow an employee to be compensated more than once for the same hours of leave.

8. For the purposes of this section, an employee is a full-time employee of an employer if the employee works at least 1,600 hours for the employer during a 12-month period beginning on the date of employment.

9. As used in this section:

(a) "Employer" means a private employer who has 25 or more employees in private employment in this State. The term does not include a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c).

(b) "Facility for long-term care" has the meaning ascribed to it in NRS 427A.028.

(c) "Hospital" has the meaning ascribed to it in NRS 449.012.

(d) "Provider of health care" has the meaning ascribed to it in NRS 629.031.

Sec. 1.5. NRS 608.115 is hereby amended to read as follows:

608.115 1. Every employer shall establish and maintain records of wages for the benefit of his or her employees, showing for each pay period the following information for each employee:

(a) Gross wage or salary other than compensation in the form of:

- (1) Services; or
- (2) Food, housing or clothing.

(b) Deductions.

(c) Net cash wage or salary.

(d) Total hours employed in the pay period by noting the number of hours per day.

(e) Date of payment.

(f) Total hours of paid sick leave available for use by the employee.



2. The information required by this section must be furnished to each employee within 10 days after the employee submits a request.

3. Records of wages must be maintained for a 2-year period following the entry of information in the record.

Sec. 2. NRS 608.180 is hereby amended to read as follows:

608.180 The Labor Commissioner or the representative of the Labor Commissioner shall cause the provisions of NRS 608.005 to 608.195, inclusive, *and section 1 of this act* to be enforced, and upon notice from the Labor Commissioner or the representative:

1. The district attorney of any county in which a violation of those sections has occurred;

2. The Deputy Labor Commissioner, as provided in NRS 607.050;

3. The Attorney General, as provided in NRS 607.160 or 607.220; or

4. The special counsel, as provided in NRS 607.065,

↪ shall prosecute the action for enforcement according to law.

Sec. 3. NRS 608.195 is hereby amended to read as follows:

608.195 1. Except as otherwise provided in NRS 608.0165, any person who violates any provision of NRS 608.005 to 608.195, inclusive, *and section 1 of this act*, or any regulation adopted pursuant thereto, is guilty of a misdemeanor.

2. In addition to any other remedy or penalty, the Labor Commissioner may impose against the person an administrative penalty of not more than \$5,000 for each such violation.

Sec. 4. This act becomes effective:

1. Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks necessary to carry out the provisions of this act; and

2. On January 1, 2018, for all other purposes.



