

Amendment No. 150

Senate Amendment to Senate Bill No. 209	(BDR 53-953)
Proposed by: Senate Committee on Commerce and Labor	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date		SENATE ACTION			Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



SENATE BILL NO. 209—SENATOR DONATE

MARCH 11, 2021

JOINT SPONSORS: ASSEMBLYMEN GONZÁLEZ AND WATTS

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to employment. (BDR 53-953)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

~

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

AN ACT relating to employment; requiring an employer in private employment to provide paid leave for the purpose of the employee receiving a vaccination for SARS-CoV-2; requiring an employer in private employment to allow ~~any use~~ certain uses of paid leave; requiring the Legislative Committee on Health Care to conduct an interim study concerning the ~~long-term implications of~~ response by this State to SARS-CoV-2 ~~on casino workers and frontline workers;~~ and to make recommendations for legislation concerning the response by this State to future public health crises; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires an employer in private employment who has 50 or more employees
2 in this State to provide at least 0.01923 hours of paid leave to an employee for each hour
3 worked, which may be used by the employee beginning on the 90th calendar day of his or her
4 employment. Existing law authorizes an employer to impose certain limitations on the accrual
5 and use of paid leave and exempts certain employers from the requirements of existing law.
6 (NRS 608.0197) ~~Section~~ In addition to this existing paid leave, section 1 of this bill
7 requires an employer to ~~allow~~ provide 2 or 4 hours of paid leave to each employee for the
8 purpose of the employee receiving a vaccination for SARS-CoV-2, including a variant of
9 SARS-CoV-2. Section 1 requires an employee to receive: (1) 2 consecutive hours of paid
10 leave if the vaccination requires only one dose; and (2) 4 hours of paid leave in two
11 allotments of 2 consecutive hours each if the vaccination requires two separate doses on
12 two separate occasions. Section 1 requires an employee to provide at least 12 hours of
13 notice to the employer before using the paid leave to obtain a vaccination for SARS-
14 CoV-2. Section 1 prohibits an employer from: (1) denying an employee the right to use
15 such paid leave; (2) penalizing the employee for using such paid leave; or (3) retaliating
16 against the employee for using such paid leave. Section 1 provides that such paid leave
17 must not be used in calculating the number of hours for which an employee is entitled to
18 be compensated for overtime. Finally, section 1: (1) provides that an employer who
19 provides an on-premises vaccination clinic is not required to provide such paid leave;

20 and (2) includes requirements and restrictions which mirror those in existing language
 21 in section 1.5 of this act.

22 Section 1.5 of this bill allows an employee to use paid leave for any use, including: (1)
 23 treatment of a medical or physical illness, injury or health condition; (2) receiving a medical
 24 diagnosis or medical care; (3) receiving or participating in preventative care; (4) ~~receiving a~~
 25 ~~vaccination, including a vaccination for SARS-CoV-2;~~ (5) participating in caregiving; or
 26 ~~((6))~~ (5) addressing other personal needs related to the health of the employee.

27 Existing law creates the Legislative Committee on Health Care. (NRS 439B.200) **Section**
 28 **2** of this bill requires the Committee to : (1) conduct a study during the 2021-2022 interim
 29 concerning the ~~long-term health implications of~~ response by this State to SARS-CoV-2 for
 30 ~~casino workers and frontline workers, including workers living in this State who do not have~~
 31 ~~lawful immigration status;~~ ; and (2) make recommendations for legislation to the
 32 Governor and the 82nd Session of the Nevada Legislature concerning the response by
 33 this State to future public health crises. Section 2 ~~[(1) requires the Committee, in~~
 34 ~~conducting this study, to appoint a representative of minority communities; and (2) authorizes~~
 35 ~~the Committee to appoint additional representatives of other affected communities.]~~
 36 authorizes the Committee to examine and consider various items and recommendations
 37 related to the public health infrastructure in this State and to SARS-CoV-2. Section 2
 38 requires the Committee to submit a report of the results of the study and ~~any~~
 39 recommendations for legislation ~~[relating to the study]~~ concerning the response by this State
 40 to future public health crises to the Governor and to the Director of the Legislative
 41 Counsel Bureau for transmittal to the 82nd Session of the Nevada Legislature.

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

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

3 1. Except as otherwise provided in subsections 6, 10 and 11, in addition to
 4 the paid leave provided pursuant to NRS 608.0197, every employer in private
 5 employment shall provide 2 or 4 hours, as determined pursuant to subsection 2,
 6 of paid leave to each employee for the purpose of the employee receiving a
 7 vaccination for COVID-19.

8 2. If an employee is to receive a vaccination for COVID-19 and the
 9 vaccination requires:

10 (a) Only one dose, the employee may take 2 consecutive hours of paid leave
 11 to receive the vaccination for COVID-19.

12 (b) Two separate doses that are administered on two separate occasions, the
 13 employee may take 2 consecutive hours of paid leave per absence for a total of 4
 14 hours of paid leave.

15 3. An employee shall, at least 12 hours before using paid leave provided to
 16 the employee pursuant to this section, give notice to his or her employer that the
 17 employee intends to use the paid leave.

18 4. An employer, and any agent, representative, supervisory employee or
 19 other person acting on behalf of or under the authority of the employer, shall
 20 not:

21 (a) Deny an employee the right to use the paid leave provided to the employee
 22 pursuant to this section;

23 (b) Require an employee to find a replacement worker as a condition of
 24 using the paid leave provided to the employee pursuant to this section; or

25 (c) Retaliate or take any adverse action against an employee for using the
 26 paid leave provided to the employee pursuant to this section. Such prohibited
 27 retaliation includes, without limitation:

1 (1) Discharging or firing the employee;

2 (2) Penalizing the employee in any fashion; and

3 (3) Deducting the paid leave provided to the employee pursuant to this
4 section from the salary or wages of the employee.

5 5. Any paid leave provided to an employee pursuant to this section must not
6 be used in calculating the number of hours for which an employee is entitled to
7 be compensated for overtime.

8 6. This section does not apply to an employer who provides a clinic on the
9 premises of the employer where an employee may receive a vaccination for
10 COVID-19 during the regular hours of work of the employee.

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

17 8. An employer shall maintain a record of the receipt or accrual and use of
18 paid leave pursuant to this section for each employee for a 1-year period
19 following the entry of such information in the record and, upon request, shall
20 make those records available for inspection by the Labor Commissioner.

21 9. The provisions of this section do not:

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

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

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

28 10. For the first 2 years of operation, an employer is not required to comply
29 with the provisions of this section.

30 11. This section does not apply to:

31 (a) An employer who, pursuant to a contract, policy, collective bargaining
32 agreement or other agreement, provides a policy for paid leave or a policy for
33 paid time off to all scheduled employees at a rate of at least 0.01923 hours of paid
34 leave per hour of work performed; and

35 (b) Temporary, seasonal or on-call employees.

36 12. As used in this section:

37 (a) "COVID-19" means:

38 (1) The novel coronavirus identified as SARS-CoV-2;

39 (2) Any mutation or variant of the novel coronavirus identified as SARS-
40 CoV-2; or

41 (3) A disease or health condition caused by the novel coronavirus
42 identified as SARS-CoV-2.

43 (b) "Employer" means a private employer who has 50 or more employees in
44 private employment in this State.

45 ~~[Section 1.]~~ Sec. 1.5. NRS 608.0197 is hereby amended to read as follows:

46 608.0197 1. Except as otherwise provided in this section, every employer in
47 private employment shall provide paid leave to each employee of the employer as
48 follows:

49 (a) An employee is entitled to at least 0.01923 hours of paid leave for each
50 hour of work performed.

51 (b) An employee may, as determined by the employer, obtain paid leave by:

1 (1) Receiving on the first day of each benefit year the total number of
2 hours of paid leave that the employee is entitled to accrue in a benefit year pursuant
3 to paragraph (a); or

4 (2) Accruing over the course of a benefit year the total number of hours of
5 paid leave that the employee is entitled to accrue in a benefit year pursuant to
6 paragraph (a).

7 (c) Paid leave accrued pursuant to subparagraph (2) of paragraph (b) may carry
8 over for each employee between his or her benefit years of employment, except an
9 employer may limit the amount of paid leave for each employee carried over to a
10 maximum of 40 hours per benefit year.

11 (d) Except as otherwise provided in paragraph (i), an employer shall:

12 (1) Compensate an employee for the paid leave available for use by that
13 employee at the rate of pay at which the employee is compensated at the time such
14 leave is taken, as calculated pursuant to paragraph (e); and

15 (2) Pay such compensation on the same payday as the hours taken are
16 normally paid.

17 (e) For the purposes of determining the rate of pay at which an employee is
18 compensated pursuant to paragraph (d), the compensation rate for an employee who
19 is paid by:

20 (1) Salary, commission, piece rate or a method other than hourly wage
21 must:

22 (I) Be calculated by dividing the total wages of the employee paid for
23 the immediately preceding 90 days by the number of hours worked during that
24 period;

25 (II) Except as otherwise provided in sub-subparagraph (III), include
26 any bonuses agreed upon and earned by the employee; and

27 (III) Not include any bonuses awarded at the sole discretion of the
28 employer, overtime pay, additional pay for performing hazardous duties, holiday
29 pay or tips earned by the employee.

30 (2) Hourly wage must be calculated by the hourly rate the employee is paid
31 by the employer.

32 (f) An employer may limit the amount of paid leave an employee uses to 40
33 hours per benefit year.

34 (g) An employer may set a minimum increment of paid leave, not to exceed 4
35 hours, that an employee may use at any one time.

36 (h) An employer shall provide to each employee on each payday an accounting
37 of the hours of paid leave available for use by that employee. An employer may use
38 the system that the employer uses to pay its employees to provide the accounting of
39 the hours of paid leave available for use by the employee.

40 (i) An employer may, but is not required to, compensate an employee for any
41 unused paid leave available for use by that employee upon separation from
42 employment, except if the employee is rehired by the employer within 90 days after
43 separation from that employer and the separation from employment was not due to
44 the employee voluntarily leaving his or her employment, any previously unused
45 paid leave hours available for use by that employee must be reinstated.

46 2. An employee in private employment may use paid leave available for use
47 by that employee as follows:

48 (a) An employer shall allow an employee to use paid leave beginning on the
49 90th calendar day of his or her employment.

50 (b) *An employer shall allow an employee to use paid leave for any use,*
51 *including, without limitation:*

52 (1) *Treatment of a mental or physical illness, injury or health condition;*

53 (2) *Receiving a medical diagnosis or medical care;*

1 *(3) Receiving or participating in preventative care;*

2 ~~*(4) Receiving a vaccination, including, without limitation, a vaccination*~~
 3 ~~*for COVID-19;*~~

4 ~~*(5) Participating in caregiving; or*~~

5 ~~*(6)*~~ *(5) Addressing other personal needs related to the health of the*
 6 *employee.*

7 (c) An employee may use paid leave available for use by that employee
 8 without providing a reason to his or her employer for such use.

9 ~~*(d)*~~ (d) An employee shall, as soon as practicable, give notice to his or her
 10 employer to use the paid leave available for use by that employee.

11 3. An employer shall not:

12 (a) Deny an employee the right to use paid leave available for use by that
 13 employee in accordance with the conditions of this section;

14 (b) Require an employee to find a replacement worker as a condition of using
 15 paid leave available for use by that employee; or

16 (c) Retaliate against an employee for using paid leave available for use by that
 17 employee.

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

24 5. An employer shall maintain a record of the receipt or accrual and use of
 25 paid leave pursuant to this section for each employee for a 1-year period following
 26 the entry of such information in the record and, upon request, shall make those
 27 records available for inspection by the Labor Commissioner.

28 6. The provisions of this section do not:

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

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

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

35 7. For the first 2 years of operation, an employer is not required to comply
 36 with the provisions of this section.

37 8. This section does not apply to:

38 (a) An employer who, pursuant to a contract, policy, collective bargaining
 39 agreement or other agreement, provides employees with a policy for paid leave or a
 40 policy for paid time off to all scheduled employees at a rate of at least 0.01923
 41 hours of paid leave per hour of work performed; and

42 (b) Temporary, seasonal or on-call employees.

43 9. As used in this section:

44 (a) "Benefit year" means a 365-day period used by an employer when
 45 calculating the accrual of paid leave.

46 (b) ~~*"COVID-19" means:*~~

47 ~~*(1) The novel coronavirus identified as SARS CoV 2;*~~

48 ~~*(2) Any mutation of the novel coronavirus identified as SARS CoV 2; or*~~

49 ~~*(3) A disease or health condition caused by the novel coronavirus*~~
 50 ~~*identified as SARS CoV 2.*~~

51 ~~*(c)*~~ "Employer" means a private employer who has 50 or more employees in
 52 private employment in this State.

53 **Sec. 2.** 1. The Legislative Committee on Health Care shall ~~*[conduct]*~~ :

(a) Conduct a study during the 2021-2022 interim concerning the ~~long-term health implications related to the~~ **response by this State to the** COVID-19 health crisis ~~for casino workers and frontline workers,~~ including, without limitation, ~~casino and frontline workers living in this State who do not have lawful immigration status,~~ **with regard to employees working in this State; and**

(b) Make recommendations for legislation to the Governor and to the 82nd Session of the Nevada Legislature concerning future public health crises.

2. In conducting the study ~~and making recommendations,~~ the Legislative Committee on Health Care ~~shall appoint a representative of minority communities. The Committee may appoint additional representatives of other affected communities, as determined by the Committee.~~ **may, without limitation;**

(a) Examine the public health infrastructure in this State. Such an examination may include, without limitation:

(1) An analysis of the strengths and weaknesses of the public health infrastructure in this State;

(2) An analysis on how state and local governments responded, delineated duties and jurisdiction and coordinated during the COVID-19 health crisis; and

(3) How the items listed in subparagraphs (1) and (2) can be improved for future public health crises.

(b) Consider recommendations for increased funding for the public health infrastructure of this State.

(c) Examine the long-term impacts of the COVID-19 health crisis on frontline workers and workers commonly considered to be essential workers.

(d) Examine the health and economic impacts of the COVID-19 health crisis using an equitable perspective.

(e) Examine the benefits and challenges of implementing a task force composed of public and private representatives that seeks to support private businesses and the population areas of this State.

(f) Consider the creation of a Public Health Service Corps in this State.

3. ~~The~~ **On or before September 1, 2022, the** Legislative Committee on Health Care shall submit a report of the results of the study and ~~any~~ recommendations for legislation ~~relating to the study~~ **concerning the response by this State to future public health crises to ~~the~~ :**

(a) The Governor; and

(b) The Director of the Legislative Counsel Bureau for transmittal to the 82nd Session of the Nevada Legislature.

4. As used in this section:

(a) “COVID-19” means:

(1) The novel coronavirus identified as SARS-CoV-2;

(2) Any mutation of the novel coronavirus identified as SARS-CoV-2; or

(3) A disease or health condition caused by the novel coronavirus identified as SARS-CoV-2.

(b) ~~“Casino worker” means an employee of a casino or hotel, including, without limitation, a gaming employee. As used in this paragraph, “gaming employee” has the meaning ascribed to it in NRS 463.0157.~~

~~(c)~~ “Frontline worker” means any person who is at a greater risk of acquiring and transmitting infection due to unavoidable, close and prolonged contact with others required to perform his or her job responsibilities. This term includes, without limitation, any workers that the Legislative Committee on Health Care determines are frontline workers.

Sec. 2.5. 1. This act becomes effective upon passage and approval.

2. Section 1 of this act expires by limitation on December 31, 2023.