

Amendment No. 32

Assembly Amendment to Assembly Bill No. 90	(BDR 53-169)
Proposed by: Assembly Committee on Commerce and Labor	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No	

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date	
Adopted	☐	Lost	☐	_____		Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____		Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____		Receded	☐	Not	☐	_____

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.

DP/WLK



Date: 4/5/2019

A.B. No. 90—Provides certain employees with the right to use sick leave to assist certain family members with medical needs. (BDR 53-169)



ASSEMBLY BILL NO. 90—COMMITTEE
ON COMMERCE AND LABOR

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON SENIOR
CITIZENS, VETERANS AND ADULTS WITH SPECIAL NEEDS)

PREFILED JANUARY 24, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Provides certain employees with the right to use sick leave to assist certain family members with medical needs. (BDR 53-169)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

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

AN ACT relating to employment; requiring private employers that provide employees with sick leave to allow an employee to use such leave to help a member of the employee's immediate family with certain medical needs; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a private employer to pay an employee certain minimum compensation and to provide certain benefits, including overtime compensation and meal and rest breaks, with certain exceptions. (NRS 608.018, 608.019, 608.250) **Section 1** of this bill requires a private employer that provides employees with sick leave to allow an employee to use accrued sick leave for an absence due to an illness, injury, medical appointment or other authorized medical need of a member of the employee's immediate family. Additionally, **section 1** authorizes such an employer to limit the amount of sick leave an employee may use for these purposes. **Section 1** also requires the Labor Commissioner to prepare and post a bulletin setting forth an explanation of the provisions of this bill and requires a private employer that provides employees with sick leave to post the bulletin in the workplace.

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 Labor 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)

WHEREAS, More than 40 million Americans provide unpaid care to someone who is over the age of 18 years and ill or disabled and approximately 4 out of 10

caregivers consider their caregiving situation to be highly stressful and report difficulties with managing emotional and physical stress, balancing work and family responsibilities and finding time for themselves; and

WHEREAS, In 2013, 348,000 Nevada family caregivers provided more than 324,000,000 hours of unpaid care, estimated at a value of \$4.27 billion; and

WHEREAS, According to a 2015 survey of registered voters in Nevada, 58 percent of family caregivers in Nevada have been employed full-time or part-time while providing care; and

WHEREAS, After surveying numerous studies, the United States Equal Employment Opportunity Commission determined that flexible workplace policies enhance employee productivity, reduce absenteeism, lower costs, aid in retention and recruitment of the best talent and may positively affect profits; now, therefore,

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, if an employer provides paid or unpaid sick leave for the use of his or her employees, the employer must allow an employee to use any accrued sick leave to assist a member of the immediate family of the employee who has an illness, injury, medical appointment or other authorized medical need to the same extent and under the same conditions that apply to the employee when taking such leave.

2. An employer may limit the amount of sick leave that an employee may use pursuant to subsection 1 to an amount which is equal to not less than the amount of sick leave that the employee accrues during a 6-month period.

3. The Labor Commissioner shall prepare a bulletin which clearly sets forth an explanation of the provisions of this section. The Labor Commissioner shall post the bulletin on the Internet website maintained by the Office of the Labor Commissioner and shall require each employer that provides sick leave to employees 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. The provisions of this section shall not be construed to:

(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; or

(d) Extend the maximum amount of leave to which an employee is entitled to take pursuant to the Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 et seq.

5. An employer shall not deny an employee the right to use accrued sick leave in accordance with the provisions of this section or retaliate against an employee for attempting to prosecute a violation of this section or for exercising any rights afforded by this section.

6. The provisions of this section do not apply to the extent prohibited by federal law.

7. As used in this section, "immediate family" means ~~the~~ :

(a) The child, foster child, spouse, domestic partner, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent or stepparent of an employee ~~or~~;

or (b) Any person for whom the employee is the legal guardian.

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, **section 1 of this act** and **NRS** 608.215 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, **section 1 of this act** or **NRS** 608.215, 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.