

SENATE BILL NO. 312—SENATORS WOODHOUSE, CANNIZZARO,
RATTI, PARKS, OHRENSCHALL; BROOKS, CANCELA,
DONDERO LOOP, D. HARRIS AND SCHEIBLE

MARCH 18, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Requires an employer in private employment to provide paid sick leave to employees under certain circumstances. (BDR 53-888)

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 an employer in private employment to provide paid sick leave to each 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 such an employer who has 25 or more employees in this State, at a minimum, to provide employees paid sick leave that must be earned at a rate of not less than 1 hour per 30 hours worked and may be used by an employee beginning on the 90th calendar day of employment. **Section 1** provides that an employee may use accrued paid sick leave: (1) for obtaining health care for himself or herself or for his or her family; (2) to obtain counseling, assistance or to attend a court proceeding related to domestic violence, sexual assault, stalking or harassment; or (3) if the business of the employer or the school which a member of the employee's family or household attends closes as a result of a public health concern. **Section 1** requires an employee to give reasonable advance notice to the employer to use his or her accrued paid sick leave. **Section 1** authorizes an employer to request reasonable documentation from the employee for use of accrued paid sick leave.

Section 1 also provides that an employer may: (1) limit the use of the paid sick leave to 24 hours per year; (2) limit the accrual of paid sick leave to a maximum of



48 hours per year; and (3) 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** provides an exception for employers who provide at least an equivalent amount of sick leave or paid time off that may be used for the same purposes and under the same conditions as required by this bill.

Existing law requires: (1) the Labor Commissioner or his or her representative to enforce the provisions governing the payment and collection of wages and other benefits; and (2) certain entities to prosecute an action for enforcement upon receiving notice from the Labor Commissioner or his or her representative. (NRS 608.180) **Section 2** of this bill requires the Labor Commissioner to enforce the provisions of **section 1**.

Existing law provides that any person who violates the provisions governing the payment and collection of wages and other benefits is guilty of a misdemeanor. Existing law additionally authorizes the Labor Commissioner to impose against the person an administrative penalty of not more than \$5,000 for each such violation. (NRS 608.195) **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, an administrative penalty of not more than \$5,000 for each violation.

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 in private employment shall provide paid sick leave to each employee of the employer as follows:

(a) An employee is entitled to accrue paid sick leave at a rate of not less than 1 hour for every 30 hours worked by the employee. For the purposes of this calculation, a salaried employee shall be deemed to work 40 hours per week, unless the employee's normal week of work is less than 40 hours, in which case paid sick leave must accrue based upon the hours worked in that employee's normal week of work.

(b) Accrued paid sick leave must carry over for each employee between his or her years of employment, except an employer may limit the accrual of paid sick leave for each employee to a maximum of 48 hours per year.

(c) Except as otherwise provided in paragraph (h), an employer shall:

(1) Compensate an employee for the accrued paid sick leave of the employee at the rate of pay at which the employee is



1 compensated at the time such leave is taken, as calculated
2 pursuant to paragraph (d), if necessary; and

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

5 (d) For the purposes of determining the rate of pay at which
6 an employee is compensated pursuant to paragraph (c), the
7 compensation rate for an employee who is paid by salary,
8 commission, piece rate or a method other than hourly wage must
9 be calculated by dividing the total wages of the employee paid for
10 the immediately preceding 90 days by the number of hours worked
11 during that period.

12 (e) An employer may limit the amount of paid sick leave an
13 employee uses to 24 hours per year.

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

17 (g) An employer shall provide to each employee on each
18 payday a written accounting of the hours of accrued paid sick
19 leave available for use by that employee.

20 (h) An employer is not required to compensate an employee for
21 any accrued unused paid sick leave upon separation from
22 employment, except if any employee is rehired by the employer
23 within 1 year after separation from that employer, any previously
24 accrued unused paid sick leave hours must be reinstated.

25 2. An employee in private employment may use accrued paid
26 sick leave as follows:

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

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

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

33 (2) To obtain counseling or assistance or to participate in
34 any court proceedings related to domestic violence, sexual assault,
35 stalking or harassment; or

36 (3) If the business of the employer or the school which a
37 member of the employee's family or household attends closes as a
38 result of a public health concern.

39 (c) To the extent possible, an employee shall give reasonable
40 advance notice to his or her employer of the need to use accrued
41 paid sick leave for any purpose listed in paragraph (b).

42 3. An employer shall not:

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



1 (b) *Require an employee to find a replacement worker as a*
2 *condition of using accrued paid sick leave; or*

3 (c) *Retaliate against an employee for using accrued paid sick*
4 *leave.*

5 4. *The employer of an employee who uses accrued paid sick*
6 *leave pursuant to this section may require the employee to provide*
7 *to the employer documentation that confirms or supports the*
8 *reason the employee provided for requesting such leave. Any*
9 *documentation provided to an employer pursuant to this*
10 *subsection is confidential.*

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

19 6. *An employer shall maintain a record of the accrual and*
20 *use of paid sick leave pursuant to this section for each employee*
21 *for a 3-year period following the entry of such information in the*
22 *record and, upon request, shall make those records available for*
23 *inspection by the Labor Commissioner.*

24 7. *The provisions of this section do not:*

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

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

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

32 8. *This section does not apply to an employer who, pursuant*
33 *to a collective bargaining agreement, contract, policy or other*
34 *agreement, provides employees with a policy for paid sick leave or*
35 *a policy for paid time off that provides for at least 24 hours of paid*
36 *sick leave per year that may be used for the same purposes and*
37 *under the same conditions as specified in this section.*

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

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

44 608.180 The Labor Commissioner or the representative of the
45 Labor Commissioner shall cause the provisions of NRS 608.005



1 to 608.195, inclusive, *and section 1 of this act* and 608.215 to be
2 enforced, and upon notice from the Labor Commissioner or the
3 representative:

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

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

8 3. The Attorney General, as provided in NRS 607.160 or
9 607.220; or

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

11 ➔ shall prosecute the action for enforcement according to law.

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

13 608.195 1. Except as otherwise provided in NRS 608.0165,
14 any person who violates any provision of NRS 608.005 to 608.195,
15 inclusive, *and section 1 of this act* or 608.215, or any regulation
16 adopted pursuant thereto, is guilty of a misdemeanor.

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

20 **Sec. 4.** This act becomes effective:

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

24 2. On January 1, 2020, for all other purposes.

