

SENATE COMMITTEE OF REFERENCE REPORT

June 3, 2020

Chair of Committee

Date

Committee on State, Veterans, & Military Affairs.

After consideration on the merits, the Committee recommends the following:

SB20-205 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, page 4, line 1, after "(5)." add ""EMPLOYEE" DOES
2 NOT INCLUDE AN "EMPLOYEE" AS DEFINED IN 45 U.S.C. SEC. 351 (d) WHO
3 IS SUBJECT TO THE FEDERAL "RAILROAD UNEMPLOYMENT INSURANCE
4 ACT", 45 U.S.C. SEC. 351 ET SEQ."

5 Page 4, line 12, strike "AND" and substitute "OR".

6 Page 4, strike lines 13 and 14 and substitute:

7 "(c) A PERSON FOR WHOM THE EMPLOYEE IS RESPONSIBLE FOR
8 PROVIDING OR ARRANGING HEALTH- OR SAFETY-RELATED CARE."

9 Page 4, lines 22 and 23, strike "8-13.3-404 AND 8-13.3-405." and
10 substitute "8-13.3-404 TO 8-13.3-406."

11 Page 5, after line 20 insert:

12 "(12) "YEAR" MEANS A REGULAR AND CONSECUTIVE
13 TWELVE-MONTH PERIOD AS DETERMINED BY AN EMPLOYER; EXCEPT THAT
14 FOR THE PURPOSES OF SECTION 8-13.3-411, "YEAR" MEANS A CALENDAR
15 YEAR."

16 Page 5, line 22, strike "**calendar**".

1 Page 6, line 5, after "PERIOD." add "THIS SUBSECTION (2)(a) DOES NOT
2 LIMIT THE ABILITY OF AN EMPLOYEE TO USE PAID SICK LEAVE AS PROVIDED
3 IN SECTION 8-13.3-405."

4 Page 6, strike lines 18 through 23 and substitute:

5 "(b) UP TO FORTY-EIGHT HOURS OF PAID SICK LEAVE THAT AN
6 EMPLOYEE ACCRUES IN A YEAR BUT DOES NOT USE CARRIES FORWARD TO,
7 AND MAY BE USED IN, A SUBSEQUENT YEAR; EXCEPT THAT AN EMPLOYER
8 IS NOT REQUIRED TO ALLOW THE EMPLOYEE TO USE MORE THAN
9 FORTY-EIGHT HOURS OF PAID SICK LEAVE IN A YEAR."

10 Page 6, line 25, after "SECTION" insert "AND SECTION 8-13.3-405".

11 Page 7, line 2, after "TO" insert "SATISFY SECTION 8-13.3-405 AND".

12 Page 7, line 8, after "SECTION," insert "AND NOTWITHSTANDING SECTION
13 8-4-101 (14)(a)(IV),".

14 Page 7, line 9, strike "ACCRUED BUT".

15 Page 7, line 16, strike "TWELVE" and substitute "SIX".

16 Page 9, strike lines 19 through 22 and substitute:

17 "(2) AN EMPLOYER SHALL ALLOW AN EMPLOYEE TO USE PAID SICK
18 LEAVE UPON THE REQUEST OF AN EMPLOYEE. THE REQUEST MAY BE MADE
19 ORALLY, IN WRITING, ELECTRONICALLY, OR BY ANY OTHER MEANS
20 ACCEPTABLE TO THE EMPLOYER. WHEN POSSIBLE, THE EMPLOYEE SHALL
21 INCLUDE THE EXPECTED DURATION OF THE ABSENCE. AN EMPLOYER MAY
22 PROVIDE A WRITTEN POLICY THAT CONTAINS REASONABLE PROCEDURES
23 FOR THE EMPLOYEE TO PROVIDE NOTICE WHEN THE USE OF PAID SICK
24 LEAVE TAKEN UNDER THIS SECTION IS FORESEEABLE. AN EMPLOYER SHALL
25 NOT DENY PAID SICK LEAVE TO THE EMPLOYEE BASED ON NONCOMPLIANCE
26 WITH SUCH A POLICY."

27 Page 12, strike lines 21 through 27.

28 Page 13, strike lines 1 and 2.

29 Reletter succeeding paragraphs accordingly.

- 1 Page 13, strike lines 14 through 16.
- 2 Renumber succeeding subsection accordingly.
- 3 Page 13, line 24, strike "ON" and substitute "(1) EMPLOYERS IN THE
4 STATE SHALL COMPLY WITH THE FEDERAL "EMERGENCY PAID SICK LEAVE
5 ACT" IN THE "FAMILIES FIRST CORONAVIRUS RESPONSE ACT", PUB. L.
6 116-127.
7 (2) ON".
- 8 Page 14, line 2, strike "PUB. L. 116-127." and substitute "PUB. L. 116-127,
9 TO EACH EMPLOYEE WHO IS NOT COVERED UNDER THE "EMERGENCY PAID
10 SICK LEAVE ACT".".
- 11 Page 15, line 22, strike "THE".
- 12 Page 15 strike lines 23 and 24.
- 13 Page 16, line 13, strike "SHALL" and substitute "SHALL, UPON HIRING OR
14 WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION,".
- 15 Page 17, line 2, after "POSTER" insert "CREATED PURSUANT TO
16 SUBSECTION (3) OF THIS SECTION".
- 17 Page 17, after line 21 insert:
- 18 "(6) IF AN EMPLOYER DOES NOT MAINTAIN A PHYSICAL
19 WORKPLACE, OR AN EMPLOYEE TELEWORKS OR PERFORMS WORK THROUGH
20 A WEB-BASED PLATFORM, THE EMPLOYER SHALL PROVIDE THE NOTICE
21 REQUIRED IN THIS SECTION THROUGH ELECTRONIC COMMUNICATION OR A
22 CONSPICUOUS POSTING IN THE WEB-BASED PLATFORM.".
- 23 Page 18, strike lines 15 through 17 and substitute "4.".
- 24 Page 19, strike lines 1 through 5 and substitute:
- 25 "(b) AFTER JANUARY 1, 2021, AN EMPLOYER WHO VIOLATES THIS
26 PART 4 IS LIABLE FOR BACK PAY AND ANY OTHER RELIEF AS PROVIDED BY
27 SECTION 8-5-104 (2)(a) AND (2)(b).".
- 28 Page 19, after line 7 insert:

1 "(d) BEFORE COMMENCING ANY CIVIL ACTION UNDER THIS
2 SECTION, AN AGGRIEVED PERSON MUST, IN ACCORDANCE WITH ARTICLE 4
3 OF THIS TITLE 8, SUBMIT A COMPLAINT TO THE DIVISION OR MAKE A
4 WRITTEN DEMAND FOR PAYMENT TO THE EMPLOYER.

5 (e) IF A PERSON AGGRIEVED BY A VIOLATION OF THIS PART 4 FILES
6 A CIVIL ACTION TO ENFORCE A JUDGMENT MADE UNDER THIS SECTION, THE
7 COURT SHALL WAIVE ANY FILING FEE REQUIRED UNDER ARTICLE 32 OF
8 TITLE 13."

9 Reletter succeeding paragraph accordingly.

10 Page 20, strike lines 10 through 14 and substitute:

11 "(2) NOTHING IN THIS PART 4 DIMINISHES:

12 (a) THE OBLIGATION OF AN EMPLOYER TO COMPLY WITH ANY
13 CONTRACT, COLLECTIVE BARGAINING AGREEMENT, EMPLOYMENT BENEFIT
14 PLAN, OR OTHER AGREEMENT PROVIDING EMPLOYEES WITH A MORE
15 GENEROUS PAID SICK LEAVE POLICY THAN THE PAID SICK LEAVE POLICY
16 REQUIRED BY THIS PART 4; OR

17 (b) THE RIGHTS, PRIVILEGES, OR REMEDIES OF AN EMPLOYEE
18 UNDER A COLLECTIVE BARGAINING OR PARTNERSHIP AGREEMENT,
19 EMPLOYER POLICY, OR EMPLOYMENT CONTRACT."

20 Page 20, strike lines 26 and 27.

21 Page 21, strike lines 1 through 4 and substitute "DOES NOT APPLY TO AN
22 EMPLOYEE IN THE BUILDING AND CONSTRUCTION INDUSTRY WHO IS
23 COVERED BY A COLLECTIVE BARGAINING AGREEMENT IF THE COLLECTIVE
24 BARGAINING AGREEMENT:

25 (a) EXPRESSLY PROVIDES FOR PAID SICK DAYS, PAID LEAVE, OR A
26 PAID TIME OFF POLICY THAT PERMITS THE USE OF SICK DAYS FOR THOSE
27 EMPLOYEES; OR

28 (b) WAIVES THE REQUIREMENTS OF THIS PART 4 IN CLEAR AND
29 UNAMBIGUOUS TERMS.

30 **8-13.3-416. Employer policies.** AN EMPLOYER POLICY ADOPTED
31 OR RETAINED MUST NOT DIMINISH AN EMPLOYEE'S RIGHT TO PAID SICK
32 LEAVE UNDER THIS PART 4. ANY AGREEMENT BY AN EMPLOYEE TO WAIVE
33 THE EMPLOYEE'S RIGHTS UNDER THIS PART 4 IS VOID AS AGAINST PUBLIC
34 POLICY.

35 **8-13.3-417. Severability.** IF ANY PROVISION OF THIS PART 4 OR
36 APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE IS JUDGED

1 INVALID, THE INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR
2 APPLICATIONS OF THIS PART 4 THAT CAN BE GIVEN EFFECT WITHOUT THE
3 INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF
4 THIS PART 4 ARE DECLARED SEVERABLE."

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