

HOUSE FLOOR SUBSTITUTE FOR HOUSE JUDICIARY COMMITTEE SUBSTITUTE
FOR HOUSE LABOR, VETERANS' AND MILITARY AFFAIRS
COMMITTEE SUBSTITUTE FOR

HOUSE BILL 20

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

AN ACT

RELATING TO EMPLOYMENT; ENACTING THE HEALTHY WORKPLACES ACT;
ESTABLISHING THE EARNED SICK LEAVE INCOME TAX CREDIT AND THE
EARNED SICK LEAVE CORPORATE INCOME TAX CREDIT; PROVIDING
REQUIREMENTS FOR EARNED SICK LEAVE; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Income Tax Act is enacted
to read:

"[NEW MATERIAL] EARNED SICK LEAVE INCOME TAX CREDIT.--

A. A taxpayer who is not a dependent of another
individual who employs more than ten but fewer than one hundred
employees in New Mexico may claim a credit in an amount equal
to two hundred fifty dollars (\$250) for each employee of the
taxpayer for whom the taxpayer is required to provide earned
sick leave pursuant to the Healthy Workplaces Act against the

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1 taxpayer's tax liability imposed pursuant to the Income Tax
2 Act. The tax credit provided by this section may be referred
3 to as the "earned sick leave income tax credit".

4 B. A taxpayer may claim an earned sick leave income
5 tax credit for the taxable year in which the taxpayer paid
6 earned sick leave. To receive the earned sick leave income tax
7 credit, a taxpayer shall apply to the department on forms and
8 in the manner prescribed by the department.

9 C. That portion of an earned sick leave income tax
10 credit that exceeds a taxpayer's tax liability in the taxable
11 year in which the credit is claimed may be carried forward for
12 a maximum of three consecutive taxable years.

13 D. Married individuals filing separate returns for
14 a taxable year for which they could have filed a joint return
15 may each claim only one-half of the tax credit provided by this
16 section that would have been claimed on a joint return.

17 E. A taxpayer may be allocated the right to claim a
18 tax credit provided by this section in proportion to the
19 taxpayer's ownership interest if the taxpayer owns an interest
20 in a business entity that is taxed for federal income tax
21 purposes as a partnership or limited liability company and that
22 business entity has met all of the requirements to be eligible
23 for the credit. The total credit claimed by all members of the
24 partnership or a limited liability company shall not exceed the
25 allowable credit pursuant to Subsection A of this section.

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1 F. A taxpayer allowed a tax credit pursuant to this
 2 section shall report the amount of the credit to the department
 3 in a manner required by the department.

4 G. The department shall compile an annual report on
 5 the tax credit provided by this section that shall include the
 6 number of taxpayers approved by the department to receive the
 7 credit, the aggregate amount of credits approved and any other
 8 information necessary to evaluate the effectiveness of the
 9 credit. The department shall present the report to the revenue
 10 stabilization and tax policy committee and the legislative
 11 finance committee with an analysis of the effectiveness and
 12 cost of the tax credit and whether the tax credit is performing
 13 the purpose for which it was created.

14 H. As used in this section, "earned sick leave"
 15 means time that is compensated at the same hourly rate and with
 16 the same benefits, including health care benefits, as an
 17 employee normally earns during hours worked and is provided by
 18 an employer to that employee for the purposes described in the
 19 Healthy Workplaces Act."

20 SECTION 2. A new section of the Corporate Income and
 21 Franchise Tax Act is enacted to read:

22 "[NEW MATERIAL] EARNED SICK LEAVE CORPORATE INCOME TAX
 23 CREDIT.--

24 A. A taxpayer that employs more than ten but fewer
 25 than one hundred employees in New Mexico may claim a credit in

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1 an amount equal to two hundred fifty dollars (\$250) for each
2 employee of the taxpayer for whom the taxpayer is required to
3 provide earned sick leave pursuant to the Healthy Workplaces
4 Act against the taxpayer's tax liability imposed pursuant to
5 the Corporate Income and Franchise Tax Act. The tax credit
6 provided by this section may be referred to as the "earned sick
7 leave corporate income tax credit".

8 B. A taxpayer may claim an earned sick leave
9 corporate income tax credit for the taxable year in which the
10 taxpayer paid earned sick leave. To receive an earned sick
11 leave corporate income tax credit, a taxpayer shall apply to
12 the department on forms and in the manner prescribed by the
13 department.

14 C. That portion of an earned sick leave corporate
15 income tax credit that exceeds a taxpayer's tax liability in
16 the taxable year in which the credit is claimed may be carried
17 forward for a maximum of three consecutive taxable years.

18 D. A taxpayer allowed a tax credit pursuant to this
19 section shall report the amount of the credit to the department
20 in a manner required by the department.

21 E. The department shall compile an annual report on
22 the tax credit provided by this section that shall include the
23 number of taxpayers approved by the department to receive the
24 credit, the aggregate amount of credits approved and any other
25 information necessary to evaluate the effectiveness of the

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1 credit. The department shall present the report to the revenue
 2 stabilization and tax policy committee and the legislative
 3 finance committee with an analysis of the effectiveness and
 4 cost of the tax credit and whether the tax credit is performing
 5 the purpose for which it was created.

6 F. As used in this section, "earned sick leave"
 7 means time that is compensated at the same hourly rate and with
 8 the same benefits, including health care benefits, as an
 9 employee normally earns during hours worked and is provided by
 10 an employer to that employee for the purposes described in the
 11 Healthy Workplaces Act."

12 SECTION 3. [NEW MATERIAL] SHORT TITLE.--Sections 3
 13 through 17 of this act may be cited as the "Healthy Workplaces
 14 Act".

15 SECTION 4. [NEW MATERIAL] PURPOSE OF ACT.--The purposes
 16 of the Healthy Workplaces Act are to:

17 A. regulate employee benefits regarding earned sick
 18 leave within New Mexico;

19 B. ensure that all employees in New Mexico can
 20 address their own health and safety needs and the health and
 21 safety needs of their families by requiring employers to
 22 provide a minimum amount of earned sick leave, including leave
 23 for the care of family members;

24 C. address the concern that many New Mexico
 25 employees currently have no access to sick leave for personal

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1 or family health needs;

2 D. reduce public and private health care costs and
3 promote preventive health services in New Mexico by enabling
4 employees to seek early and routine medical care for themselves
5 and their family members;

6 E. protect the public's health in New Mexico by
7 reducing the risk of contagion;

8 F. promote the economic stability of employees and
9 their families;

10 G. protect employees in New Mexico from losing
11 their jobs or facing workplace discipline when they use earned
12 sick leave to care for themselves or their families;

13 H. benefit businesses by reducing worker turnover
14 due to the lack of earned sick leave and decreasing the
15 incidence of employees coming to work with illnesses and health
16 conditions that reduce their productivity;

17 I. safeguard the public welfare, health, safety and
18 prosperity of the people of New Mexico; and

19 J. accomplish the purposes described in Subsections
20 A through I of this section in a manner that is feasible for
21 employers.

22 SECTION 5. [NEW MATERIAL] DEFINITIONS.--As used in the
23 Healthy Workplaces Act:

24 A. "division" means the labor relations division of
25 the workforce solutions department;

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1 B. "domestic partner" means an individual with whom
2 another individual maintains a household and a mutual committed
3 relationship without a legally recognized marriage;

4 C. "earned sick leave" means time that is
5 compensated at the same hourly rate and with the same benefits,
6 including health care benefits, as an employee normally earns
7 during hours worked and is provided by an employer to that
8 employee for the purposes described in the Healthy Workplaces
9 Act, but in no case shall the hourly rate be less than the
10 applicable legally required minimum wage rate;

11 D. "employ" means suffer or permit to work; the
12 burden of proof shall be upon the person for whom the work is
13 performed to show independent contractor status by clear and
14 convincing evidence;

15 E. "employee" means an individual employed by an
16 employer, including an individual employed on a part-time,
17 seasonal or temporary basis, or an individual performing
18 domestic service in a private home for remuneration;

19 F. "employer" means an individual, partnership,
20 association, corporation, business trust, legal representative
21 or any organized group of persons employing one or more
22 employees at any one time, acting directly or indirectly in the
23 interest of an employer in relation to an employee, but shall
24 not include the United States. "Employer" includes the state
25 or any political subdivision of the state, and "employer"

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1 includes a person providing remuneration for domestic service
2 in a private home;

3 G. "family member" means an employee's spouse or
4 domestic partner or a person related to an employee or an
5 employee's spouse or domestic partner as:

6 (1) a biological, adopted or foster child, a
7 stepchild or legal ward, or a child to whom the employee stands
8 in loco parentis;

9 (2) a biological, foster, step or adoptive
10 parent or legal guardian, or a person who stood in loco
11 parentis when the employee was a minor child;

12 (3) a grandparent;

13 (4) a grandchild;

14 (5) a biological, foster, step or adopted
15 sibling;

16 (6) a spouse or domestic partner of a family
17 member; or

18 (7) an individual whose close association with
19 the employee or the employee's spouse or domestic partner is
20 the equivalent of a family relationship;

21 H. "health care professional" means a person
22 licensed pursuant to federal or state law to provide health
23 care services, including nurses, nurse practitioners, physician
24 assistants, doctors and emergency room personnel;

25 I. "public health emergency" means a declaration or

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1 proclamation issued pursuant to federal, state or local law of
 2 an emergency related to a risk or threat to public health; and

3 J. "retaliation" means any threat, discharge,
 4 discipline, suspension, demotion, non-promotion, less favorable
 5 scheduling, reduction of hours or application of absence
 6 control policies that count an employee's use of earned sick
 7 leave as an absence that may lead to adverse action, or other
 8 adverse action against employees for the exercise of a right
 9 guaranteed pursuant to the Healthy Workplaces Act, including
 10 sanctions against an employee who is a recipient of benefits or
 11 rights pursuant to the Healthy Workplaces Act. "Retaliation"
 12 includes interference with or punishment for filing a complaint
 13 or participating in a proceeding or hearing pursuant to the
 14 Healthy Workplaces Act.

15 SECTION 6. [NEW MATERIAL] APPLICABILITY.--The Healthy
 16 Workplaces Act shall apply to an employer with eleven or more
 17 New Mexico employees.

18 SECTION 7. [NEW MATERIAL] EARNED SICK LEAVE--USE AND
 19 ACCRUAL.--

20 A. Employees shall accrue a minimum of one hour of
 21 earned sick leave for every thirty hours worked; provided that
 22 employers may choose a higher accrual rate or provide for
 23 accrual of all earned sick leave at the beginning of a year.
 24 Such employees shall not be entitled to use more than sixty-
 25 four hours of earned sick leave per twelve-month period, unless

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1 the employer selects a higher limit.

2 B. All employees shall accrue earned sick leave as
3 follows:

4 (1) earned sick leave as provided in the
5 Healthy Workplaces Act shall begin to accrue upon commencement
6 of the employee's employment and may be used beginning on the
7 sixtieth day after the effective date of the Healthy Workplaces
8 Act;

9 (2) employees who are exempt from overtime
10 requirements pursuant to the federal Fair Labor Standards Act
11 of 1938, 29 U.S.C. Section 213(a)(1), shall be assumed to work
12 forty hours in each work week for the purposes of earned sick
13 leave accrual unless their normal work week is less than forty
14 hours, in which case earned sick leave accrues based on their
15 normal work week;

16 (3) accrued unused earned sick leave shall
17 carry over from year to year, but an employer is not required
18 to permit an employee to use more than sixty-four hours in a
19 twelve-month period;

20 (4) nothing in this section shall be construed
21 as requiring financial or other reimbursement to an employee
22 from an employer upon the employee's termination, resignation,
23 retirement or other separation from employment for accrued
24 earned sick leave that has not been used;

25 (5) if an employee is transferred to a

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1 separate division, entity or location but remains employed by
2 the same employer, the employee is entitled to all earned sick
3 leave accrued at the prior division, entity or location and is
4 entitled to use all earned sick leave as provided in this
5 section. When there is a separation from employment, and the
6 employee is rehired within twelve months of separation by the
7 same employer, previously accrued earned sick leave that has
8 not been used shall be reinstated. Further, the employee shall
9 be entitled to use accrued earned sick leave and accrue
10 additional earned sick leave upon re-commencement of
11 employment; and

12 (6) when a different employer succeeds or
13 takes the place of an existing employer, all employees of the
14 original employer who remain employed by the successor employer
15 are entitled to all earned sick leave accrued when employed by
16 the original employer and are entitled to use all earned sick
17 leave previously accrued.

18 C. An employee may use earned sick leave:

- 19 (1) for the employee's:
20 (a) mental or physical illness, injury
21 or health condition;
22 (b) medical diagnosis, care or treatment
23 of a mental or physical illness, injury or health condition; or
24 (c) preventive medical care;
25 (2) for care of family members of the employee

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1 for:

2 (a) mental or physical illness, injury
3 or health condition;

4 (b) medical diagnosis, care or treatment
5 of a mental or physical illness, injury or health condition; or

6 (c) preventive medical care;

7 (3) for meetings at the employee's child's
8 school or place of care related to the child's health or
9 disability; or

10 (4) for absence necessary due to domestic
11 abuse, sexual assault or stalking suffered by the employee or a
12 family member of the employee; provided that the leave is for
13 the employee to:

14 (a) obtain medical or psychological
15 treatment or other counseling;

16 (b) relocate;

17 (c) prepare for or participate in legal
18 proceedings; or

19 (d) obtain services or assist a family
20 member of the employee with any of the activities set forth in
21 Subparagraphs (a) through (c) of this paragraph.

22 D. Earned sick leave shall be provided upon the
23 oral or written request of an employee or an individual acting
24 on the employee's behalf. When possible, the request shall
25 include the expected duration of the sick leave absence.

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1 E. When the use of earned sick leave is
2 foreseeable, the employee shall make a good faith effort to
3 provide oral or written notice of the need for such sick leave
4 to the employer in advance of the use of the earned sick leave
5 and shall make a reasonable effort to schedule the use of
6 earned sick leave in a manner that does not unduly disrupt the
7 operations of the employer. When the use of earned sick leave
8 is not foreseeable, the employee shall notify the employer
9 orally or in writing as soon as practicable.

10 F. An employer may not require, as a condition of
11 an employee's taking earned sick leave, that the employee
12 search for or find a replacement worker to cover the hours
13 during which the employee is using earned sick leave.

14 G. Earned sick leave may be used in the smaller of
15 hourly increments or the smallest increment that the employer's
16 payroll system uses to account for absences or use of other
17 time.

18 H. An employer shall not require an employee to use
19 other paid leave before the employee uses sick leave pursuant
20 to the Healthy Workplaces Act.

21 I. An employer's failure to provide earned sick
22 leave based on the employer's misclassification of the employee
23 as an independent contractor is a violation of the Healthy
24 Workplaces Act.

25 SECTION 8. [NEW MATERIAL] EXISTING EARNED SICK LEAVE

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1 POLICY--EXEMPTION.--An employer with an earned sick leave
2 policy that provides sick leave separate from other forms of
3 paid time off, and who makes available an amount of earned sick
4 leave sufficient to meet the accrual requirements of the
5 Healthy Workplaces Act that may be used for the same purposes
6 and under the same conditions as earned sick leave under that
7 act, is not required to provide additional earned sick leave.
8 However, the sick leave required by the Healthy Workplaces Act
9 is in addition to any paid time off provided by an employer
10 that may be used for any purpose other than those specified in
11 that act.

12 SECTION 9. [NEW MATERIAL] DOCUMENTATION.--

13 A. Documentation shall not be required for sick
14 leave, except an employer may require reasonable documentation
15 that sick leave has been used for a covered purpose if the
16 employee uses three or more consecutive work days of sick
17 leave.

18 B. Documentation signed by a health care
19 professional indicating the amount of earned sick leave taken
20 is necessary shall be considered reasonable documentation for
21 sick leave taken pursuant to the Healthy Workplaces Act. In
22 cases of domestic abuse, sexual assault or stalking, an
23 employee may choose to provide one of the following types of
24 documentation, which shall be considered as reasonable
25 documentation: a police report, a court-issued document or a

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1 signed statement from a victim services organization, clergy
2 member, attorney, advocate, the employee, a family member of
3 the employee or other person affirming that the sick leave was
4 taken for one of the purposes set forth in Paragraph (4) of
5 Subsection C of Section 7 of this 2021 act. A signed statement
6 required pursuant to this subsection may be written in the
7 employee's native language and shall not be required to be in a
8 particular format or notarized. An employer may not require
9 the documentation to explain the nature of any medical
10 condition or the details of the domestic abuse, sexual assault
11 or stalking.

12 C. If an employer chooses to require documentation
13 for the purpose of the use of earned sick leave, the employer
14 shall pay the cost of any verification by a health care
15 professional that is not covered by insurance or other benefit
16 plan.

17 D. An employee shall provide documentation upon
18 request to the employer in a timely manner. The employer shall
19 not delay the commencement of earned sick leave on the basis
20 that the employer has not yet received documentation.

21 E. All information an employer obtains related to
22 an employee's reasons for taking sick leave shall be treated as
23 confidential and not disclosed except with the permission of
24 the employee or as necessary for validation purposes for
25 insurance disability claims, accommodations consistent with the

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1 federal Americans with Disabilities Act of 1990, as required by
2 the Healthy Workplaces Act or by court order.

3 SECTION 10. [NEW MATERIAL] NOTICE AND POSTING
4 REQUIREMENTS.--

5 A. An employer shall give written notice to an
6 employee at the commencement of employment of the following:

- 7 (1) the employee's right to earned sick leave;
8 (2) the manner in which sick leave is accrued
9 and calculated;
10 (3) the terms of the use of earned sick leave
11 as guaranteed by the Healthy Workplaces Act;
12 (4) that retaliation against employees for the
13 use of sick leave is prohibited;
14 (5) the employee's right to file a complaint
15 with the division if earned sick leave as required pursuant to
16 the Healthy Workplaces Act is denied by the employer or if the
17 employee is retaliated against; and
18 (6) all means of enforcing violations of the
19 Healthy Workplaces Act.

20 B. Notice required pursuant to Subsection A of this
21 section shall be in English, Spanish or any language that is
22 the first language spoken by at least ten percent of the
23 employer's workforce, as requested by the employee.

24 C. Employers shall display a poster that contains
25 the information required pursuant to Subsection A of this

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1 section in a conspicuous and accessible place in each
 2 establishment where employees are employed. The poster
 3 displayed should be in English, Spanish and any language that
 4 is the first language spoken by at least ten percent of the
 5 employer's workforce.

6 D. The division shall create and make available to
 7 employers notices and posters in English, Spanish and any other
 8 languages deemed appropriate by the division that contain the
 9 information required pursuant to Subsection A of this section
 10 for employers' use in complying with the provisions of this
 11 section.

12 SECTION 11. [NEW MATERIAL] EMPLOYER SHALL RETAIN
 13 DOCUMENTATION.--Employers shall retain for the immediately
 14 preceding forty-eight-month period records documenting hours
 15 worked by employees and earned sick leave taken by employees.

16 SECTION 12. [NEW MATERIAL] EXERCISE OF RIGHTS PROTECTED--
 17 RETALIATION PROHIBITED.--

18 A. An employer shall not take or threaten any
 19 adverse action whatsoever against an employee:

20 (1) that is reasonably likely to deter such
 21 employee from exercising or attempting to exercise a right
 22 granted pursuant to the Healthy Workplaces Act; or

23 (2) because the employee:

24 (a) has exercised or attempted to
 25 exercise such rights;

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1 (b) has in good faith alleged violations
2 of the Healthy Workplaces Act; or

3 (c) has raised a concern about
4 violations of the Healthy Workplaces Act to the employer, the
5 employer's agent, other employees, a government agency or to
6 the public through print, online, social or any other media.

7 B. An employer shall not attempt to require an
8 employee to sign a contract or other agreement that would limit
9 or prevent the employee from asserting rights provided for in
10 the Healthy Workplaces Act or to otherwise establish a
11 workplace policy that would limit or prevent the exercise of
12 such rights. An employer's attempt to impose such a contract,
13 agreement or policy shall constitute an adverse action
14 enforceable pursuant to the Healthy Workplaces Act.

15 C. An employer shall not count use of sick leave in
16 a way that will lead to discipline, discharge, demotion,
17 non-promotion, less favorable scheduling, reduction of hours,
18 suspension or any other adverse action.

19 SECTION 13. [NEW MATERIAL] COMPLAINTS--ADMINISTRATIVE
20 HEARINGS--DIVISION DUTIES--RULES--CONFIDENTIALITY OF
21 COMPLAINTS--ENFORCEMENT AND PENALTIES.--

22 A. A person or an entity that has a member who has
23 been affected by a violation of the Healthy Workplaces Act may
24 file a complaint with the division.

25 B. Within sixty days of the date of enactment of

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1 the Healthy Workplaces Act, the division shall establish by
 2 rule a dispute resolution process for complaints filed pursuant
 3 to Subsection A of this section. The process shall include an
 4 option for a party to a dispute to request an administrative
 5 hearing where both parties have an opportunity to provide facts
 6 and reasons for the dispute. When a party to a dispute
 7 requests an administrative hearing, the division shall not make
 8 a determination with respect to the dispute until the
 9 completion of the hearing.

10 C. The division shall promulgate rules for the
 11 implementation and administration of the Healthy Workplaces
 12 Act. The rules shall include a system:

13 (1) to receive complaints regarding violations
 14 of the Healthy Workplaces Act. This system shall provide for
 15 the use of multiple means of communicating complaints; and

16 (2) for communications with employees and
 17 employers regarding administrative hearings and decisions
 18 regarding complaints.

19 D. When the division determines that an employer
 20 has misclassified an employee as an independent contractor, the
 21 division shall notify the taxation and revenue department, the
 22 workforce transition services division of the workforce
 23 solutions department, the workers' compensation administration
 24 and the federal internal revenue service.

25 SECTION 14. [NEW MATERIAL] CIVIL ACTIONS--TIME LIMITS--

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1 BURDENS OF PROOF.--

2 A. A civil action may be filed in a court of
3 competent jurisdiction for a violation of the Healthy
4 Workplaces Act within three years from the date the alleged
5 violation occurred.

6 B. The division, the office of the attorney general
7 or a person or entity that has a member who has been affected
8 by a violation of the Healthy Workplaces Act may bring a civil
9 action for a violation of the Healthy Workplaces Act.

10 C. A civil action to enforce any provision of the
11 Healthy Workplaces Act may be filed without first filing an
12 administrative complaint with the division and may:

13 (1) encompass all violations that occurred as
14 part of a continuing course of conduct, regardless of the date
15 on which the violations occurred;

16 (2) be pursued by an employee on behalf of the
17 employee or be pursued by an employee on behalf of other
18 employees similarly situated; or

19 (3) be pursued by an agent or representative
20 designated by an employee.

21 D. It shall not be a defense to any action brought
22 pursuant to this section that the complaint was brought by or
23 in regard to the employment of a worker who does not have
24 evidence of having a legal presence in the United States.

25 E. The parties in a civil action regarding

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1 retaliation by an employer shall be subject to the following
2 burdens of proof:

3 (1) when an employee presents a prima facie
4 showing of retaliation, the employer shall then have the burden
5 to establish a legitimate, non-retaliatory reason for the
6 adverse employment action;

7 (2) when an employer meets the burden of proof
8 required by Paragraph (1) of this subsection, the employee
9 shall then have the burden to establish that the reason cited
10 by the employer was not the reason for the adverse employment
11 action; and

12 (3) when it is established that the adverse
13 employment action was motivated by a combination of both lawful
14 and unlawful reasons, the employer shall have the burden to
15 demonstrate that the action would have been taken even in the
16 absence of the unlawful reason.

17 SECTION 15. [NEW MATERIAL] EMPLOYER LIABILITY.--

18 A. An employer that violates the Healthy Workplaces
19 Act shall be liable to the affected employee:

20 (1) for an instance of earned sick leave taken
21 by an employee but unlawfully not compensated by the employer,
22 in an amount equal to three times the wages that should have
23 been paid or one thousand dollars (\$1,000), whichever is
24 greater;

25 (2) for an instance of earned sick leave

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1 requested by an employee but unlawfully denied by the employer
2 and not taken by the employee or unlawfully conditioned on
3 searching for or finding a replacement worker, in an amount
4 equal to actual damages or one thousand dollars (\$1,000),
5 whichever is greater;

6 (3) for each instance of retaliation
7 prohibited by the Healthy Workplaces Act excepting discharge
8 from employment, in an amount equal to actual damages,
9 including back pay, wages or benefits lost, an additional
10 amount of five hundred dollars (\$500) and equitable relief such
11 as rescission of disciplinary measures taken by the employer or
12 other relief as determined by a court of law;

13 (4) for each instance of prohibited discharge
14 from employment, in an amount equal to actual damages,
15 including back pay, wages or benefits lost, an additional
16 amount of one thousand dollars (\$1,000) and reinstatement or
17 other equitable relief as determined by a court of law;

18 (5) for each willful notice or recordkeeping
19 violation, five hundred dollars (\$500); and

20 (6) for each misclassification of an employee
21 as an independent contractor, actual damages or one thousand
22 dollars (\$1,000), whichever is greater.

23 B. A plaintiff prevailing in a legal action brought
24 pursuant to the Healthy Workplaces Act shall recover all
25 appropriate legal or equitable relief, the costs and expenses

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1 of suit and reasonable attorney fees. In an action brought by
2 the division or the attorney general, any damages recovered
3 shall be payable to the individual employees who experienced
4 the violation.

5 SECTION 16. [NEW MATERIAL] STATE PREEMPTION.--A political
6 subdivision of the state, including a home rule municipality,
7 or an institution of the state shall not adopt a law, policy or
8 resolution that regulates or attempts to regulate earned sick
9 leave.

10 SECTION 17. SEVERABILITY.--If any part or application of
11 the provisions of the Healthy Workplaces Act is held invalid,
12 the remainder or its application to other situations or persons
13 shall not be affected.

14 SECTION 18. APPLICABILITY.--The provisions of Sections 1
15 and 2 of this act apply to taxable years beginning on or after
16 January 1, 2022.

17 SECTION 19. EFFECTIVE DATE.--The effective date of the
18 provisions of this act is July 1, 2022.

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