

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

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO EMPLOYMENT; ENACTING THE HEALTHY WORKPLACES ACT;
PROVIDING REQUIREMENTS FOR EARNED SICK LEAVE; PROVIDING
PENALTIES Hf11→; ~~DECLARING AN EMERGENCY~~←Hf11 .

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Healthy Workplaces Act".

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SJC → SECTION 2. ~~[NEW MATERIAL] PURPOSE OF ACT. -- The purposes of the Healthy Workplaces Act are to:~~

- ~~A. regulate employee benefits regarding earned sick leave within New Mexico;~~
- ~~B. ensure that all employees in New Mexico can address their own health and safety needs and the health and safety needs of their families by requiring employers to provide a minimum amount of earned sick leave, including leave for the care of family members;~~
- ~~C. address the concern that many New Mexico employees currently have no access to sick leave for personal or family health needs;~~
- ~~D. reduce public and private health care costs and promote preventive health services in New Mexico by enabling employees to seek early and routine medical care for themselves and their family members;~~
- ~~E. protect the public's health in New Mexico by reducing the risk of contagion;~~
- ~~F. promote the economic stability of employees and their families;~~
- ~~G. protect employees in New Mexico from losing their jobs or facing workplace discipline when they use earned sick leave to care for themselves or their families;~~
- ~~H. benefit businesses by reducing worker turnover due to the lack of earned sick leave and decreasing the~~

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~~incidence of employees coming to work with illnesses and health conditions that reduce their productivity;~~

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

~~J. accomplish the purposes described in Subsections A through I of this section in a manner that is feasible for employers.~~ ←SJC

SECTION SJC→3.←SJC SJC→2.←SJC [NEW MATERIAL]

DEFINITIONS.--As used in the Healthy Workplaces Act:

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

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

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

D. "employ" means suffer or permit to work;

Sf11→~~the burden of proof shall be upon the person for whom the work is performed to show independent contractor status by clear and convincing evidence;~~ ←Sf11

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E. "employee" means an individual employed by an employer Hf11→for remuneration←Hf11 , including an individual employed on a part-time, seasonal or temporary basis Hf11→, ~~or an individual performing domestic service in a private home for remuneration~~←Hf11 ; "employee" does not mean an employee of an employer subject to the provisions of Title II of the federal Railway Labor Act or an employee as defined in either the federal Railroad Unemployment Insurance Act or the Federal Employers' Liability Act;

F. "employer" means an individual, partnership, association, corporation, business trust, legal representative or any organized group of persons employing one or more employees at any one time, acting Sf11→directly or indirectly←Sf11 in the interest of an employer in relation to an employee, but shall not include the United States Sf11→SJC→, ~~the state or any political subdivision of the state~~←SJC←Sf11 , Sf11→the state or any political subdivision of the state←Sf11 Hf11→. ~~"Employer" includes a person providing remuneration for domestic service in a private home~~←Hf11 ;

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

- (1) a biological, adopted or foster child, a stepchild or legal ward, or a child to whom the employee stands

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in loco parentis;

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

(3) a grandparent;

(4) a grandchild;

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

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

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

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

SJC→~~I. "public health emergency" means a declaration or proclamation issued pursuant to federal, state or local law of an emergency related to a risk or threat to public health; and~~←SJC

SJC→I. "independent contractor" means a person who agrees to do certain work where the person who engages the contractor may direct the result to be accomplished but does not have the right to control the manner in which the details

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of the work are to be performed; and ←SJC

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

SECTION SJC→4.←SJC SJC→3.←SJC [NEW MATERIAL] EARNED SICK LEAVE--USE AND ACCRUAL.--

A. Employees shall accrue a minimum of one hour of earned sick leave for every thirty hours worked; provided that employers may choose a higher accrual rate; and provided further that an employer may instead elect to grant employees the full sixty-four hours of earned sick leave for the upcoming year on January 1 of each year or, for employees whose employment begins after January 1 of a given year, a pro rata portion of the sixty-four hours for use in the remainder of that year. Such employees shall not be entitled to use more than sixty-four hours of earned sick leave per twelve-month

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period, unless the employer selects a higher limit.

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

(1) earned sick leave as provided in the Healthy Workplaces Act shall begin to accrue upon Hf11→**the latter of**←Hf11 commencement of the employee's employment Hf11→**or the effective date of the Healthy Workplaces Act**←Hf11 and may be used beginning on the STBTC→~~Hf11→sixtieth day after the effective date of the Healthy Workplaces Act;~~←Hf11←STBTC STBTC→~~Hf11→sixtieth day after that date;~~←Hf11←STBTC STBTC→~~STBTC→sixtieth day after the effective date of the Healthy Workplaces Act;~~←STBTC←STBTC STBTC→**latter of those dates;**←STBTC

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

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

(4) nothing in this section shall be construed

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as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement or other separation from employment for accrued earned sick leave that has not been used;

(5) if an employee is transferred to a separate division, entity or location but remains employed by the same employer, the employee is entitled to all earned sick leave accrued at the prior division, entity or location and is entitled to use all earned sick leave as provided in this section. When there is a separation from employment, and the employee is rehired within twelve months of separation by the same employer, previously accrued earned sick leave that has not been used shall be reinstated. Further, the employee shall be entitled to use accrued earned sick leave and accrue additional earned sick leave upon re-commencement of employment; STBTC→~~and~~←STBTC

(6) when a different employer succeeds or takes the place of an existing employer, all employees of the original employer who remain employed by the successor employer are entitled to all earned sick leave accrued when employed by the original employer and are entitled to use all earned sick leave previously accrued Sfl1→**as provided in this section**←Sfl1
STBTC→~~.~~←STBTC STBTC→~~;~~←STBTC

STBTC→**(7) for purposes of this subsection, an employer may choose any one of the following methods for**

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determining the twelve-month period in which the earned sick leave may be used:

(a) the calendar year;

(b) any fixed twelve-month leave year, such as a fiscal year, a year required by other law or a year starting on an employee's anniversary date;

(c) the twelve-month period measured forward from the date an employee's first use of earned sick leave occurs; or

(d) a rolling twelve-month period measured backward from the date an employee uses any earned sick leave; and

(8) for purposes of this subsection, "year to year" shall run concurrently with the twelve-month period elected by the employer. ←STBTC

C. An employee may use earned sick leave:

(1) for the employee's:

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

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

(c) preventive medical care;

(2) for care of family members of the employee for:

(a) mental or physical illness, injury

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or health condition;

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

(c) preventive medical care;

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

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

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

(b) relocate;

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

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

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

E. When the use of earned sick leave is foreseeable, the employee shall make a Hf11→good faith←Hf11

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Hf11→reasonable←Hf11 effort to provide oral or written notice of the need for such sick leave to the employer in advance of the use of the earned sick leave and shall make a reasonable effort to schedule the use of earned sick leave in a manner that does not unduly disrupt the operations of the employer. When the use of earned sick leave is not foreseeable, the employee shall notify the employer orally or in writing as soon as practicable.

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

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

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

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

SJC→SECTION 5. ~~[NEW MATERIAL] SUPPLEMENTAL LEAVE DURING A PUBLIC HEALTH EMERGENCY.~~

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~~A. In addition to the accrued earned sick leave provided pursuant to Section 4 of the Healthy Workplaces Act, on the date a public health emergency is declared, an employer SJC→Hfll→in a geographic area subject to the declaration←Hfll←SJC shall provide supplemental paid sick leave for absences due to the circumstances listed in Subsection E of this section. Such supplemental paid sick leave shall be provided in the following amounts at a minimum:~~

~~(1) eighty hours for an employee who normally works forty or more hours in a week; or~~

~~(2) the number of hours the employee works on average in a fourteen-day period for an employee who normally works fewer than forty hours in a week.~~

~~B. The supplemental paid sick leave provided pursuant to Subsection A of this section shall be the entirety of supplemental paid sick leave required pursuant to the Healthy Workplaces Act for a public health emergency regardless of whether the public health emergency is subsequently amended, extended or renewed.~~

~~G. If a public health emergency was declared before and remains in effect on the effective date of the Healthy Workplaces Act, supplemental paid sick leave required pursuant to this section shall be provided to employees SJC→Hfll→in a geographic area subject to the declaration←Hfll←SJC on the effective date of the Healthy Workplaces Act.~~

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~~D. An employer may count an employee's unused accrued earned sick leave pursuant to Section 4 of the Healthy Workplaces Act toward the supplemental paid sick leave required in Subsection A of this section. An employee may use supplemental paid sick leave provided pursuant to this section until four weeks after the official termination of a public health emergency.~~

~~E. Supplemental paid sick leave provided pursuant to this section shall be available to an employee for absences due to:~~

~~(1) care, testing or treatment of the employee or a family member to whom the employee provides care as a consequence of being diagnosed with, experiencing symptoms of or exposure to a communicable illness or transmittable condition that is related to a public health emergency;~~

~~(2) self-isolation by the employee or a family member to whom the employee provides care as a consequence of being diagnosed with, experiencing symptoms of or exposure to a communicable illness or transmittable condition that is related to a public health emergency;~~

~~(3) the pursuit of preventive care for the employee or a family member to whom the employee provides care for a communicable illness that is related to a public health emergency;~~

~~(4) compliance with a determination by the~~

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~~employer or a local, state or federal public official or health authority having jurisdiction over the location of work for the employee or a family member to whom the employee provides care that:~~

~~(a) the place of employment is closed;~~

~~(b) the individual's presence on the job~~

~~or in the community would jeopardize the health of others due to exposure to a communicable illness or transmittable condition related to a public health emergency; or~~

~~(c) the individual is exhibiting~~

~~symptoms of a communicable illness or transmittable condition related to a public health emergency, regardless of whether the individual has been diagnosed with the communicable illness;~~

~~(5) care of a family member when that~~

~~individual's:~~

~~(a) care provider is unavailable due to~~

~~a public health emergency; or~~

~~(b) school or place of care has been~~

~~physically closed due to a public health emergency, whether or not the school or place of care is providing instruction or services remotely; or~~

~~(6) an inability to work due to a health~~

~~condition that may increase the risk posed by a communicable illness that is related to a public health emergency.~~

~~F. An employee shall notify the employee's employer~~

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~~of the need to use supplemental paid sick leave pursuant to this section as soon as practicable when the need for the leave is foreseeable and the employer's place of business has not been closed.~~

~~G. Documentation shall not be required to take supplemental paid sick leave provided pursuant to this section.~~ ←SJC

SHPAC → SECTION 6. ~~[NEW MATERIAL] MORE GENEROUS EARNED SICK LEAVE POLICY.--An employer with an earned sick leave policy that provides sick leave separate from other forms of paid time off, and who makes available an amount of earned sick leave sufficient to meet the accrual requirements of the Healthy Workplaces Act that may be used for the same purposes and under the same conditions as earned sick leave under that act, is not required to provide additional earned sick leave. However, the sick leave required by the Healthy Workplaces Act is in addition to any paid time off provided by an employer~~
SHPAC → Hfll → pursuant to a collective bargaining agreement ← Hfll ← SHPAC that may be used for any purpose other than those specified in that act. ← SHPAC

SHPAC → SECTION SJC → 6. ← SJC SJC → 4. ← SJC [NEW MATERIAL]
MORE GENEROUS EARNED SICK LEAVE POLICY.--An employer with a paid time off policy that makes available an amount of earned sick leave sufficient to meet the accrual requirements of the Healthy Workplaces Act and that may be used for at minimum the

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same purposes and under the same terms and conditions as that act is deemed to be in compliance with that act. However, on the effective date of the Healthy Workplaces Act, the sick leave required by that act shall be in addition to any paid time off provided by an employer pursuant to a collective bargaining agreement unless that paid time off provided may be used for the same purposes and under the same terms and conditions as the Healthy Workplaces Act. ←SHPAC

SECTION SJC→7.←SJC SJC→5.←SJC [NEW MATERIAL]

DOCUMENTATION.--

A. Documentation shall not be required for sick leave, except an employer may require reasonable documentation that sick leave has been used for a covered purpose if the employee uses Hf11→three←Hf11 Hf11→two←Hf11 or more consecutive work days of sick leave.

B. Documentation signed by a health care professional indicating the amount of earned sick leave taken is necessary shall be considered reasonable documentation for sick leave taken pursuant to the Healthy Workplaces Act. In cases of domestic abuse, sexual assault or stalking, an employee may choose to provide one of the following types of documentation, which shall be considered as reasonable documentation: a police report, a court-issued document or a signed statement from a victim services organization, clergy member, attorney, advocate, the employee, a family member of

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the employee or other person affirming that the sick leave was taken for one of the purposes set forth in Paragraph (4) of Subsection C of Section SJC→4←SJC SJC→3←SJC of the Healthy Workplaces Act. A signed statement required pursuant to this subsection may be written in the employee's native language and shall not be required to be in a particular format or notarized. An employer may not require the documentation to explain the nature of any medical condition or the details of the domestic abuse, sexual assault or stalking.

Sf11→C. ~~If an employer chooses to require documentation for the purpose of the use of earned sick leave, the employer shall pay the cost of any verification by a health care professional that is not covered by insurance or other benefit plan.~~←Sf11

Sf11→D.←Sf11 Sf11→C.←Sf11 An employee shall provide documentation upon request to the employer in a timely manner. The employer shall not delay the commencement of earned sick leave on the basis that the employer has not yet received documentation.

Sf11→E.←Sf11 Sf11→D.←Sf11 All information an employer obtains related to an employee's reasons for taking sick leave shall be treated as confidential and not disclosed except with the permission of the employee or as necessary for validation purposes for insurance disability claims, accommodations consistent with the federal Americans with

Disabilities Act of 1990, as required by the Healthy Workplaces Act or by court order.

SECTION SJC→8.←SJC SJC→6.←SJC [NEW MATERIAL] NOTICE AND POSTING REQUIREMENTS.--

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

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

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

C. Employers shall display a poster that contains

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the information required pursuant to Subsection A of this section in a conspicuous and accessible place in each establishment where employees are employed. The poster displayed should be in English, Spanish and any language that is the first language spoken by at least ten percent of the employer's workforce.

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

SECTION SJC→9.←SJC SJC→7.←SJC [NEW MATERIAL] EMPLOYER SHALL RETAIN DOCUMENTATION.--Employers shall retain for the immediately preceding forty-eight-month period records documenting hours worked by employees and earned sick leave taken by employees.

SECTION SJC→10.←SJC SJC→8.←SJC [NEW MATERIAL] EXERCISE OF RIGHTS PROTECTED--RETALIATION PROHIBITED.--

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

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

(2) because the employee:

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

(b) has SJC→~~in good faith~~←SJC SJC→**reasonably**←SJC alleged violations of the Healthy Workplaces Act; or

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

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

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

SECTION SJC→~~11.~~←SJC SJC→**9.**←SJC [NEW MATERIAL]
ENFORCEMENT.--

A. The division shall be authorized to coordinate implementation and enforcement of the Healthy Workplaces Act

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and shall promulgate appropriate rules to implement that act.

B. The division shall coordinate implementation and enforcement of the Healthy Workplaces Act, including:

(1) establishing a system to receive complaints, in writing and by telephone, regarding alleged violations of the Healthy Workplaces Act;

(2) establishing a process for investigating and resolving complaints in a timely manner and keeping complainants notified regarding the status of the investigation of their complaint;

(3) ensuring employer compliance with the Healthy Workplaces Act through the use of audits, investigations or other measures; and

(4) establishing a system for reviewing complaints.

C. The division shall maintain as confidential the identity of any complainant unless disclosure of such complainant's identity is necessary for resolution of the investigation or otherwise required by law. The division shall, prior to such disclosure and to the extent practicable, notify a complainant that the division will be disclosing the complainant's identity.

SECTION SJC→12.←SJC SJC→10.←SJC [NEW MATERIAL] CIVIL ACTIONS--TIME LIMITS--BURDENS OF PROOF.--

A. A civil action may be filed in a court of

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competent jurisdiction for a violation of the Healthy Workplaces Act within three years from the date the alleged violation occurred; provided that the time limit to file a civil action established by this subsection shall be tolled during an investigation by the division of the violation or related violations by the same employer. Sfl1→~~An investigation by the division shall not be required to file a civil action,~~ and←Sfl1 Sfl1→~~a~~←Sfl1 Sfl1→~~A~~←Sfl1 lack of an investigation by the division shall not act as a bar to a civil action brought by a complainant pursuant to the Healthy Workplaces Act.

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

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

(1) encompass all violations that occurred Sfl1→~~after the effective date of the Healthy Workplaces Act~~←Sfl1 as part of a continuing course of conduct, regardless of the date on which the violations occurred;

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

(3) be pursued by an agent or representative

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designated by an employee.

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

E. The parties in a civil action regarding retaliation by an employer shall be subject to the following burdens of proof:

(1) when an employee presents a prima facie showing of retaliation, the employer shall then have the burden to establish a legitimate, non-retaliatory reason for the adverse employment action Sf12→;←Sf12 Sf12→and←Sf12

(2) when an employer meets the burden of proof required by Paragraph (1) of this subsection, the employee shall then have the burden to establish that the reason cited by the employer was Sf12→not the reason for the adverse employment action; and←Sf12 Sf12→pretextual.←Sf12

Sf12→(3) when it is established that the adverse employment action was motivated by a combination of both lawful and unlawful reasons, the employer shall have the burden to demonstrate that the action would have been taken even in the absence of the unlawful reason.←Sf12

SECTION SJC→13.←SJC SJC→11.←SJC [NEW MATERIAL] EMPLOYER LIABILITY.--

A. An employer that violates the Healthy Workplaces

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Act shall be liable to the affected employee:

(1) for an instance of sick leave taken by an employee but unlawfully not compensated by the employer, in an amount equal to three times the wages that should have been paid or ~~Sfll→one thousand dollars (\$1,000)←Sfll~~ Sfll→**five hundred dollars (\$500)←Sfll** , whichever is greater;

(2) for an instance of sick leave requested by an employee but unlawfully denied by the employer and not taken by the employee or unlawfully conditioned on searching for or finding a replacement worker, in an amount equal to actual damages or ~~Sfll→one thousand dollars (\$1,000)←Sfll~~ Sfll→**five hundred dollars (\$500)←Sfll** , whichever is greater;

(3) for each instance of retaliation prohibited by the Healthy Workplaces Act excepting discharge from employment, in an amount equal to actual damages, including back pay, wages or benefits lost, an additional amount of ~~Sfll→five hundred dollars (\$500)←Sfll~~ Sfll→**two hundred fifty dollars (\$250)←Sfll** and equitable relief such as rescission of disciplinary measures taken by the employer or other relief as determined by a court of law;

(4) for each instance of prohibited discharge from employment, in an amount equal to actual damages, including back pay, wages or benefits lost, an additional amount of ~~Sfll→one thousand dollars (\$1,000)←Sfll~~ Sfll→**five hundred dollars (\$500)←Sfll** and reinstatement or other

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equitable relief as determined by a court of law;

(5) for each willful notice or recordkeeping violation, Sfl1→~~five hundred dollars (\$500)~~←Sfl1 Sfl1→two hundred fifty dollars (\$250)←Sfl1 ; and

(6) for each misclassification of an employee as an independent contractor, actual damages or Sfl1→one thousand dollars (\$1,000)←Sfl1 Sfl1→five hundred dollars (\$500)←Sfl1 , whichever is greater.

B. A plaintiff prevailing in a legal action brought pursuant to the Healthy Workplaces Act shall recover all appropriate legal or equitable relief, the costs and expenses of suit and reasonable attorney fees. In an action brought by the division or the attorney general, any damages recovered shall be payable to the individual employees who experienced the violation.

SECTION SJC→14.←SJC SJC→12.←SJC [NEW MATERIAL] OTHER LEGAL REQUIREMENTS.-- The Healthy Workplaces Act provides minimum requirements pertaining to earned sick leave and shall not be construed to preempt, limit or otherwise affect the applicability of any other law, regulation, requirement, policy or standard, including collective bargaining agreements, that provides for greater accrual or use by employees of earned sick leave, whether paid or unpaid, or that extends other protections to employees.

SJC→~~SECTION 15. SEVERABILITY.--If any part or~~

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~~application of the provisions of the Healthy Workplaces Act is held invalid, the remainder or its application to other situations or persons shall not be affected.~~ ←SJC

SHPAC → ~~Hf11~~ → SECTION 16. EMERGENCY. --It is necessary for the public peace, health and safety that this act take effect immediately. ←Hf11 ←SHPAC

SHPAC → ~~SHPAC~~ → SECTION 16. EMERGENCY. --It is necessary for the public peace, health and safety that this act take effect immediately. ←SHPAC ←SHPAC

SHPAC → SECTION SJC → ~~16.~~ ←SJC SJC → 13. ←SJC EFFECTIVE DATE. -
-The effective date of the provisions of this act is July 1, 2022. ←SHPAC

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