

Initiative Measure No. 750

filed August 14, 2015

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: I-3020.1/15

ATTY/TYPIST: AA:akl

BRIEF DESCRIPTION:

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AN ACT Relating to paid vacation leave; adding a new chapter to Title 49 RCW; and prescribing penalties.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** INTENT. The people find that a healthy, productive workplace requires more than fair wages and less income disparity. Workers at all income levels need an opportunity for paid time away from work to rejuvenate and spend time with families. In addition, vacation time benefits businesses by increasing workplace productivity and morale. The people find; however, that nationwide only about thirty percent of low-wage workers have any paid vacation, compared to more than eighty-five percent of high-wage workers. The United States is the only advanced economy that does not guarantee its workers paid vacation time. The people intend to improve the health and quality of life of Washington's workers, family connections, and workplace productivity by mandating a minimum amount of paid vacation leave.

NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" and "director" have the same meaning as provided in RCW 49.12.005.

(2) "Employee" means any individual employed by an employer, including individuals employed on a part-time basis. An individual performing work in the state on an occasional basis is an employee only if he or she performs more than two hundred forty hours of work in the state.

(3) "Employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity that engages in any business, industry, profession, or activity in this state and employs ten or more employees for each working day during each of twenty or more calendar work weeks in the current or preceding calendar year. "Employer" also means the state, and any unit of local government including, but not limited to, a county, city, town, municipal corporation, quasi-municipal corporation, or political subdivision, that employs ten or more employees for each working day during each of twenty or more calendar work weeks in the current or preceding calendar year. "Employer" does not mean a school district as defined in RCW 28A.315.025, a community college or technical college as defined in RCW 28B.50.030, or an institution of higher education as defined in RCW 28B.10.016.

(4) "Vacation leave" means paid leave from work for vacation, personal holiday, or any other purpose.

NEW SECTION. **Sec. 3.** ACCRUAL OF LEAVE. (1) An employee is not entitled to accrue vacation leave until the employee has worked for the employer for six months.

(2) After the initial six-month period, an employee is entitled to accrue two hours leave for each forty hours worked for the employer.

(3) Leave accrues to an employee on a pro rata basis at each pay period as the employee renders services to the employer.

(4) Leave accrues for an employee who works less than forty hours per week on a pro rata basis.

(5) An employer with a combined or universal paid leave policy, including but not limited to a paid time off policy, complies with this section if the policy specifically identifies at least as much leave as required by this section as leave for vacation.

(6) If an employee separates from employment and the same employer rehires the employee within seven months of the separation:

(a) The employer must count previous time worked for purposes of the entitlement to leave accrual under subsections (1) and (2) of this section; and

(b) The employer must reinstate previously accrued and unused vacation leave immediately upon reemployment.

NEW SECTION. **Sec. 4.** USE OF LEAVE. If an employee requests leave from the employer according to the employer's written policy or, if the employer does not have a written policy, requests leave, the employer must grant the leave requested unless the employer demonstrates a business necessity for denying the leave. An employer may require up to twelve months of employment with the employer before an employee may request leave.

NEW SECTION. **Sec. 5.** COMPENSATION. An employer must compensate an employee who uses vacation leave at the same pay and with the same benefits, including employer-provided health care benefits, as the employee would have earned during the time leave is taken. Nothing in this chapter requires an employer to provide financial or other reimbursement for accrued and unused vacation leave to any employee upon the employee's termination, resignation, retirement, or other separation from employment.

NEW SECTION. **Sec. 6.** RECORDKEEPING. An employer must provide current information to each employee on the employee's accrued and available vacation leave. An employer may use any system, including a notification on pay stubs or an online system, which provides employees with information about their vacation leave.

NEW SECTION. **Sec. 7.** RETALIATION. An employer may not discharge, threaten to discharge, demote, deny a promotion to, sanction, discipline, retaliate against, harass, or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee:

- (1) Exercised rights under section 3, 4, or 12 of this act;
- (2) Filed or communicated to the employer an intent to file a complaint under section 8 of this act; or
- (3) Participated or assisted, as a witness or otherwise, in another employee's attempt to exercise rights under section 3, 4, 8, or 12 of this act.

NEW SECTION. **Sec. 8.** ENFORCEMENT. (1) Upon complaint by an employee, the director may investigate to determine if there has been compliance with section 3, 4, 7, or 12 of this act and the rules adopted to implement this act.

(2) If the director determines that a violation has occurred, the director must issue a notice of infraction and may order the employer to comply with section 3, 4, 7, or 12 of this act. The director may also order an employer found to have committed an infraction to pay:

- (a) A civil penalty of five hundred dollars for a first violation and one thousand dollars for a subsequent violation; and
- (b) Compensation to the department for the costs of investigating and remedying the violation.

(3) Appeal from the director's decision is governed by chapter 34.05 RCW.

NEW SECTION. **Sec. 9.** MORE GENEROUS POLICIES. This chapter provides minimum vacation leave requirements and is not intended to discourage and does not prohibit an employer from adopting or retaining a leave policy more generous than any policies that comply with this chapter, or as diminishing the obligation of any employer to comply with any contract, collective bargaining agreement, employment benefit plan, or other agreement providing more generous vacation leave than required under this chapter.

NEW SECTION. **Sec. 10.** RELATIONSHIP TO OTHER LAWS. This chapter does not preempt, limit, or otherwise affect the applicability of any other law, regulation, rule, requirement, policy, or standard, including any law or ordinance of a local government, that provides for greater accrual by employees of paid vacation leave or other leave, or extends other protections to employees.

NEW SECTION. **Sec. 11.** WAIVER-COLLECTIVE BARGAINING. (1) The requirements of this chapter do not apply to any employees covered by a bona fide collective bargaining agreement to the extent that the requirements are expressly waived in the collective bargaining agreement in clear and unambiguous terms.

(2) Any waiver by an individual employee of any requirements of this chapter is contrary to public policy and is void and unenforceable.

(3) This chapter may not be construed to impair any provision of a collective bargaining agreement in effect on the effective date of this section.

NEW SECTION. **Sec. 12.** NOTICE. (1) An employer must give notice to employees regarding this chapter. An employer may comply with this section by providing the information on a notice to each employee or on a poster displayed in a conspicuous place on the premises of the employer where notices to employees and applicants

are customarily posted. The notice must be in English and in any other language that is the first language spoken by at least five percent of the employer's workforce.

(2) The department must include notice regarding this chapter in the next reprinting of employment posters.

NEW SECTION. **Sec. 13.** STUDY. (1) The Washington state institute for public policy must evaluate the impact of this chapter on the economy of this state and the health and well-being of employees. The evaluation must include a survey of employers and employees. In addition, the institute must study the feasibility of the department or another state agency offering a commercial, nonproprietary online system for employers and employees to track vacation leave. The department must cooperate with the institute.

(2) By December 1, 2018, and in compliance with RCW 43.01.036, the institute must submit a report to the appropriate committees of the legislature that provides the institute's evaluation regarding the impact of this chapter and recommendations regarding an online system to track vacation leave.

NEW SECTION. **Sec. 14.** RULES. The department may adopt rules to implement this chapter.

NEW SECTION. **Sec. 15.** SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 16.** Sections 1 through 14 of this act constitute a new chapter in Title 49 RCW.

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