

This Document can be made available
in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

**EIGHTY-FIFTH
SESSION**

HOUSE FILE NO. 1334

February 22, 2007

Authored by Lesch, Clark, Davnie, Hansen and Rukavina

The bill was read for the first time and referred to the Committee on Commerce and Labor

1.1 A bill for an act
1.2 relating to employment; establishing minimum standards of sick leave for certain
1.3 workers proposing coding for new law in Minnesota Statutes, chapter 181.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. **[181.9395] SICK LEAVE.**

1.6 Subdivision 1. Citation; Healthy Families, Healthy Workplaces Act. This section
1.7 may be cited as the "Healthy Families, Healthy Workplaces Act."

1.8 Subd. 2. Purpose. The purpose of the Healthy Families, Healthy Workplaces Act is:
1.9 (1) to ensure that all working Minnesotans can address their health needs and the health
1.10 needs of their families; (2) to permit victims of sexual assault and domestic violence to
1.11 address needs directly related to the violence; and (3) to enable workers to seek early and
1.12 routine medical care for themselves and their family members.

1.13 Subd. 3. Definitions. For purposes of this section, the following definitions apply.

1.14 (a) "Employ" is as defined in the Fair Labor Standards Act, section 177.23,
1.15 subdivision 5.

1.16 (b) "Employer" is as defined in the Fair Labor Standards Act, section 177.23,
1.17 subdivision 6, but as used in this section applies only to employers who employ ten or
1.18 more persons.

1.19 (c) "Employee" is as defined in the Fair Labor Standards Act, section 177.23,
1.20 subdivision 7.

1.21 (d) "Child" means biological, adopted or foster child, stepchild or legal ward, or a
1.22 child to whom the employee stands in loco parentis who is under the age of 18 years or
1.23 who is 18 years of age or older but incapable of self care or earning a living due to a
1.24 physical or mental disability or incapacity.

2.1 (e) "Parent" means a biological, foster, stepparent or adoptive parent, or legal
2.2 guardian of an employee or an employee's spouse, or a person who stood in loco parentis
2.3 when the employee was a minor child.

2.4 (f) "Spouse" means a person to whom the employee is legally married under the
2.5 laws of Minnesota.

2.6 (g) "Grandparent" means a parent of a parent.

2.7 (h) "Extended family member" means a relative within the third degree by blood or
2.8 marriage.

2.9 (i) "Small employer" means any private individual, firm, partnership, institution,
2.10 corporation, or association that employs less than ten persons.

2.11 (j) "Health care professional" means any person licensed under federal or Minnesota
2.12 state law to provide medical or emergency services, including but not limited to doctors,
2.13 nurses, and emergency room personnel.

2.14 (k) "Paid sick leave" means leave that is compensated at the same hourly rate as the
2.15 employee earns from his or her employment and is provided by an employer or small
2.16 employer to an employee for the purposes described in section 3.

2.17 (l) "Domestic violence" is as defined in the Domestic Abuse Act, section 518B.01,
2.18 subdivision 2, paragraph (a).

2.19 (m) "Sexual assault" includes sexual assault in the first, second, third, fourth, and
2.20 fifth degree as defined in sections 609.342 to 609.3451.

2.21 (n) "Stalking" means engaging in a course of conduct directed at a specific person
2.22 that would cause a reasonable person to: (1) fear for his or her safety or the safety of
2.23 others; or (2) suffer substantial emotional distress.

2.24 (o) "Small business employer" for purposes of this section means any private
2.25 individual, firm, partnership, institution, corporation, or association that employs less
2.26 than ten persons.

2.27 (p) "Retaliatory personnel action" means the discharge, suspension, or demotion
2.28 by an employer of an employee or any other adverse employment action taken by an
2.29 employer against an employee in the terms and conditions of employment.

2.30 (q) "Department" means the Department of Labor and Industry.

2.31 (r) "Commissioner" means the commissioner of labor and industry or an authorized
2.32 designee or representative.

2.33 Subd. 4. **Accrual of paid sick leave.** (a) All employees have the right to paid sick
2.34 leave as provided in this section.

3.1 (b) All employers shall provide a minimum of one hour of paid sick leave for every
3.2 40 hours worked by an employee. Employers will not be required under this section to
3.3 provide more than 52 hours of sick leave for an employee in a calendar year.

3.4 (c) Small business employers shall provide a minimum of one hour of paid sick
3.5 leave for every 80 hours worked by an employee. Small employers will not be required
3.6 under this section to provide more than 26 hours of paid sick leave in a calendar year.

3.7 (d) Paid sick leave shall accrue in hour unit increments.

3.8 (e) Paid sick leave as provided in this section shall begin to accrue at the
3.9 commencement of employment.

3.10 (f) Employees shall be entitled to use accrued paid sick leave beginning on the 90th
3.11 day following commencement of their employment. After the 90th day of employment,
3.12 employees may use sick leave as it is accrued.

3.13 (g) There shall be a limit of 40 hours on the amount of paid sick leave an employee
3.14 may carry forward from one calendar year to the next.

3.15 (h) Any employer with a paid leave policy who makes available an amount of paid
3.16 leave that may be used for the same purposes and under the same conditions as paid sick
3.17 leave under this section shall be deemed to be in compliance with this section.

3.18 (i) Nothing in this section shall be construed to prevent employers from adopting or
3.19 retaining leave policies that are more generous than the policies required under this section.

3.20 Subd. 5. Use of paid sick leave. (a) Paid sick leave shall be provided to an
3.21 employee by an employer or small employer for:

3.22 (1) an employee's mental or physical illness, injury or health condition or need for
3.23 medical diagnosis, care, or treatment of a mental or physical illness, injury, or health
3.24 condition or need for preventive medical care;

3.25 (2) care of a spouse, child, parent, grandparent, or extended family member or any
3.26 other individual related by blood or affinity whose close relationship with the employee is
3.27 the equivalent of a family relationship with a mental or physical illness, injury, or health
3.28 condition who needs medical diagnosis, care, or treatment of a mental or physical illness,
3.29 injury, or health condition or who needs preventive medical care; and

3.30 (3) absence necessary due to domestic violence, provided the leave is to:

3.31 (i) seek medical attention for the employee or employee's child, spouse, parent,
3.32 grandparent, or extended family member to recover from physical or psychological injury
3.33 or disability caused by domestic or sexual violence;

3.34 (ii) obtain services from a victim services organization;

3.35 (iii) obtain psychological or other counseling;

3.36 (iv) seek relocation due to the domestic or sexual violence or stalking; or

4.1 (v) take legal action, including preparing for or participating in any civil or criminal
4.2 legal proceeding related to or resulting from the domestic or sexual violence.

4.3 (b) An employer or small employer may require reasonable notice of the need for
4.4 paid sick leave. If the need for the leave is foreseeable, an employer may require advance
4.5 notice of the intention to take such leave, but in no case shall require notice of more than
4.6 seven days advance notice. If the need is not foreseeable, an employer may require an
4.7 employee to give notice of the need for leave as soon as practicable.

4.8 (c) For leave of more than three consecutive days, an employer may require
4.9 reasonable documentation that the paid leave is covered by paragraph (a). Under paragraph
4.10 (a), clause (1) or (2), documentation signed by a health care professional indicating the
4.11 need for the number of paid sick leave days shall be considered reasonable documentation.
4.12 Under paragraph (a), clause (3), a court record or documentation signed by an employee
4.13 or volunteer working for a victims services organization, an attorney, a police officer, or
4.14 other anti-violence counselor shall be considered reasonable documentation.

4.15 Subd. 6. **Retaliation prohibited.** An employer or small employer shall not take
4.16 retaliatory personnel action or discriminate against an employee because the employee
4.17 has requested paid sick leave under this section or taken paid sick leave guaranteed by
4.18 this section or made a complaint or filed an action to enforce their right to paid sick leave
4.19 under this section.

4.20 Subd. 7. **Notice and posting.** (a) Employers shall give notice that employees
4.21 are entitled to paid sick leave, the amount of paid sick leave, and the terms of its use
4.22 guaranteed under this section, that retaliation against employees who request or use paid
4.23 sick leave is prohibited, and that each employee has the right to file a complaint or bring
4.24 a civil action if sick leave as required by this section is denied by the employer or the
4.25 employee is retaliated against for requesting or taking paid sick leave.

4.26 (b) Employers may comply with this section by supplying each of their employees
4.27 with a notice in English and Spanish that contains the information required in paragraph
4.28 (a).

4.29 (c) Employers may comply with this section by displaying a poster in a conspicuous
4.30 and accessible place in each establishment where such employees are employed which
4.31 contains in English and Spanish all information required under paragraph (a).

4.32 (d) The commissioner shall create and make available to employers for their use
4.33 in complying with this subdivision, posters that contain the information required under
4.34 paragraph (a).

5.1 Subd. 8. **Regulations; investigations.** (a) The commissioner shall issue regulations
5.2 for implementing this section including, but not limited to, requirements for documentation
5.3 by employers and small employers of their compliance with the terms of this section.

5.4 (b) The commissioner shall have authority under the enforcement powers provided
5.5 in section 175.20, to insure compliance with the terms of this section.

5.6 Subd. 9. **Enforcement.** (a) Any person aggrieved by failure to provide paid sick
5.7 leave as required by this section may bring a civil action in a state district court against an
5.8 employer violating this section.

5.9 (b) Upon prevailing in an action brought pursuant to this section, aggrieved persons
5.10 shall recover the full amount of any unpaid sick leave plus any actual damages suffered as
5.11 the result of the employer's failure to provide paid sick leave and shall also be entitled to
5.12 reasonable attorney fees.

5.13 (c) Upon prevailing in an action brought pursuant to this section, aggrieved persons
5.14 shall be entitled to such legal or equitable relief as may be appropriate to remedy the
5.15 violation, including, without limitation, reinstatement in employment and injunctive relief.

5.16 (d) An employee subjected to retaliatory personnel action in violation of this section
5.17 may institute a civil action in a state district court and shall be entitled to recover damages
5.18 and any other legal or equitable relief as may be appropriate. An employee who prevails
5.19 in an action under this subdivision shall be entitled to reasonable attorney fees.

5.20 (e) Any person aggrieved by either a retaliatory personnel action in violation of this
5.21 section or by an employer's failure to provide paid sick leave as required by this section
5.22 may file a complaint with the attorney general. The filing of a complaint with the attorney
5.23 general does not preclude the filing of a civil action pursuant to subdivision 1 or 2.

5.24 (f) The attorney general may bring a civil action to enforce this section. The attorney
5.25 general may seek injunctive relief. In addition to injunctive relief, or in lieu thereof, for
5.26 any employer or other person found to have willfully violated this section, the attorney
5.27 general may seek to impose a fine of \$1,000 per violation, payable to the state.

5.28 (g) The statute of limitations for a civil action brought pursuant to this section shall
5.29 be a period of five years from the date the alleged violation occurred.

5.30 (h) Actions brought pursuant to this section may be brought as a class action insofar
5.31 as permitted pursuant to Minnesota law.

5.32 Subd. 10. **Confidentiality and nondisclosure.** If an employer possesses health
5.33 information or information pertaining to domestic violence about an employee or
5.34 employee's child, parent, spouse, extended family member, or other individual described
5.35 in section 3, such information shall be treated as confidential and not disclosed except to
5.36 the affected employee or with the permission of the affected employee.

6.1 Subd. 11. **Encouragement of more generous leave policies; no effect on more**
6.2 **generous leave policies.** (a) Nothing in this section shall be construed to discourage or
6.3 prohibit an employer from the adoption or retention of a paid leave policy more generous
6.4 than the one required herein.

6.5 (b) Nothing in this section shall be construed as diminishing the obligation of an
6.6 employer to comply with any contract, collective bargaining agreement, employment
6.7 benefit plan, or other agreement providing more generous leave to an employee than
6.8 required herein.

6.9 (c) Nothing in this section shall be construed as diminishing the rights of public
6.10 employees regarding paid sick leave or use of sick leave as provided in section 43A.1815.

6.11 **Sec. 2. SEVERABILITY.**

6.12 If any provision of this act or application thereof to any person or circumstance is
6.13 judged invalid, the invalidity shall not affect other provisions or applications of the act
6.14 which can be given effect without the invalid provision or application, and to this end the
6.15 provisions of this act are declared severable.

6.16 **Sec. 3. EFFECTIVE DATE.**

6.17 Sections 1 and 2 are effective 180 days following final enactment.