
HOUSE BILL 1163

State of Washington 64th Legislature 2015 Regular Session

By Representatives Tarleton, Walkinshaw, Moeller, Ortiz-Self,
Gregerson, Pollet, S. Hunt, Appleton, Ormsby, and Goodman

Read first time 01/14/15. Referred to Committee on Labor.

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

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** INTENT. The legislature finds that a
5 healthy, productive workplace, critical to our state's economy,
6 requires more than fair wages and less income disparity. Workers at
7 all income levels need an opportunity for paid time away from work to
8 rejuvenate and spend time with families. In addition, vacation time
9 benefits businesses by increasing workplace productivity and morale.
10 The legislature finds, however, that nationwide only about thirty
11 percent of low-wage workers have any paid vacation, compared to more
12 than eighty-five percent of high-wage workers. The United States is
13 the only advanced economy that does not guarantee its workers paid
14 vacation time. Therefore, the legislature intends to improve the
15 health and quality of life of its workers, family connections, and
16 workplace productivity by requiring minimum paid vacation leave for
17 Washington workers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (a) A civil penalty of five hundred dollars for a first violation
10 and one thousand dollars for a subsequent violation; and

11 (b) Compensation to the department for the costs of investigating
12 and remedying the violation.

13 (3) Appeal from the director's decision is governed by chapter
14 34.05 RCW.

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

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

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

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

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

4 NEW SECTION. **Sec. 12.** NOTICE. (1) An employer must give notice
5 to employees regarding this chapter. An employer may comply by
6 providing the information on a notice to each employee or on a poster
7 displayed in a conspicuous place on the premises of the employer
8 where notices to employees and applicants are customarily posted. The
9 notice must be in English and in any language that is the first
10 language spoken by at least five percent of the employer's workforce.

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

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

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

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

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

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

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