**5233 AMH LAWS H2438.1 - NOT FOR FLOOR USE**

**SB 5233** - H COMM AMD

By Committee on Labor & Workplace Standards

**ADOPTED 04/04/2019**

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  The legislature finds that Initiative 1433 is a good law approved by the voters to establish sick leave benefits for workers. The law creates necessary worker protections while simultaneously reducing the spread of communicable sickness and disease and addressing other public health and safety concerns.

However, the legislature finds that this new law does not provide for flexibility and portability of benefits for construction workers who may work for multiple employers and who already negotiate wages and benefits with their employers. Workers covered under a collective bargaining agreement for the construction industry should be allowed the ability to negotiate comparable benefits that ensures that eligibility can be achieved and that the benefits are portable from employer to employer.

**Sec.**  RCW 49.46.020 and 2017 c 2 s 3 are each amended to read as follows:

(1)(a) Beginning January 1, 2017, and until January 1, 2018, every employer shall pay to each of his or her employees who has reached the age of eighteen years wages at a rate of not less than eleven dollars per hour.

(b) Beginning January 1, 2018, and until January 1, 2019, every employer shall pay to each of his or her employees who has reached the age of eighteen years wages at a rate of not less than eleven dollars and fifty cents per hour.

(c) Beginning January 1, 2019, and until January 1, 2020, every employer shall pay to each of his or her employees who has reached the age of eighteen years wages at a rate of not less than twelve dollars per hour.

(d) Beginning January 1, 2020, and until January 1, 2021, every employer shall pay to each of his or her employees who has reached the age of eighteen years wages at a rate of not less than thirteen dollars and fifty cents per hour.

(2)(a) Beginning on January 1, 2021, and each following January 1st as set forth under (b) of this subsection, every employer shall pay to each of his or her employees who has reached the age of eighteen years wages at a rate of not less than the amount established under (b) of this subsection.

(b) On September 30, 2020, and on each following September 30th, the department of labor and industries shall calculate an adjusted minimum wage rate to maintain employee purchasing power by increasing the current year's minimum wage rate by the rate of inflation. The adjusted minimum wage rate shall be calculated to the nearest cent using the consumer price index for urban wage earners and clerical workers, CPI-W, or a successor index, for the twelve months prior to each September 1st as calculated by the United States department of labor. Each adjusted minimum wage rate calculated under this subsection (2)(b) takes effect on the following January 1st.

(3) An employer must pay to its employees: (a) All tips and gratuities; and (b) all service charges as defined under RCW 49.46.160 except those that, pursuant to RCW 49.46.160, are itemized as not being payable to the employee or employees servicing the customer. Tips and service charges paid to an employee are in addition to, and may not count towards, the employee's hourly minimum wage.

(4) Beginning January 1, 2018, except as provided in section 4 of this act, every employer must provide to each of its employees paid sick leave as provided in RCW 49.46.200 and 49.46.210.

(5) The director shall by regulation establish the minimum wage for employees under the age of eighteen years.

**Sec.**  RCW 49.46.210 and 2017 c 2 s 5 are each amended to read as follows:

(1) Beginning January 1, 2018, except as provided in section 4 of this act, every employer shall provide each of its employees paid sick leave as follows:

(a) An employee shall accrue at least one hour of paid sick leave for every forty hours worked as an employee. An employer may provide paid sick leave in advance of accrual provided that such front-loading meets or exceeds the requirements of this section for accrual, use, and carryover of paid sick leave.

(b) An employee is authorized to use paid sick leave for the following reasons:

(i) An absence resulting from an employee's mental or physical illness, injury, or health condition; to accommodate the employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or an employee's need for preventive medical care;

(ii) To allow the employee to provide care for a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or care for a family member who needs preventive medical care; and

(iii) When the employee's place of business has been closed by order of a public official for any health-related reason, or when an employee's child's school or place of care has been closed for such a reason.

(c) An employee is authorized to use paid sick leave for absences that qualify for leave under the domestic violence leave act, chapter 49.76 RCW.

(d) An employee is entitled to use accrued paid sick leave beginning on the ninetieth calendar day after the commencement of his or her employment.

(e) Employers are not prevented from providing more generous paid sick leave policies or permitting use of paid sick leave for additional purposes.

(f) An employer may require employees to give reasonable notice of an absence from work, so long as such notice does not interfere with an employee's lawful use of paid sick leave.

(g) For absences exceeding three days, an employer may require verification that an employee's use of paid sick leave is for an authorized purpose. If an employer requires verification, verification must be provided to the employer within a reasonable time period during or after the leave. An employer's requirements for verification may not result in an unreasonable burden or expense on the employee and may not exceed privacy or verification requirements otherwise established by law.

(h) An employer may not require, as a condition of an employee taking paid sick leave, that the employee search for or find a replacement worker to cover the hours during which the employee is on paid sick leave.

(i) For each hour of paid sick leave used, an employee shall be paid the greater of the minimum hourly wage rate established in this chapter or his or her normal hourly compensation. The employer is responsible for providing regular notification to employees about the amount of paid sick leave available to the employee.

(j) Unused paid sick leave carries over to the following year, except that an employer is not required to allow an employee to carry over paid sick leave in excess of forty hours.

(k) This section does not require an employer to provide financial or other reimbursement for accrued and unused paid sick leave to any employee upon the employee's termination, resignation, retirement, or other separation from employment. When there is a separation from employment and the employee is rehired within twelve months of separation by the same employer, whether at the same or a different business location of the employer, previously accrued unused paid sick leave shall be reinstated and the previous period of employment shall be counted for purposes of determining the employee's eligibility to use paid sick leave under subsection (1)(d) of this section.

(2) For purposes of this section, "family member" means any of the following:

(a) A child, including a biological, adopted, or foster child, stepchild, or a child to whom the employee stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status;

(b) A biological, adoptive, de facto, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child;

(c) A spouse;

(d) A registered domestic partner;

(e) A grandparent;

(f) A grandchild; or

(g) A sibling.

(3) An employer may not adopt or enforce any policy that counts the use of paid sick leave time as an absence that may lead to or result in discipline against the employee.

(4) An employer may not discriminate or retaliate against an employee for his or her exercise of any rights under this chapter including the use of paid sick leave.

NEW SECTION. **Sec.**  A new section is added to chapter 49.46 RCW to read as follows:

(1) The sick leave provisions of RCW 49.46.200 through 49.46.830 shall not apply to construction workers covered by a collective bargaining agreement, provided:

(a) The union signatory to the collective bargaining agreement is an approved referral union program authorized under RCW 50.20.010 and in compliance with WAC 192-210-110; and

(b) The collective bargaining agreement establishes equivalent sick leave provisions, as provided in subsection (2) of this section; and

(c) The requirements of RCW 49.46.200 through 49.46.830 are expressly waived in the collective bargaining agreement in clear and unambiguous terms or in an addendum to an existing agreement including an agreement that is open for negotiation provided the sick leave portions were previously ratified by the membership.

(2) Equivalent sick leave provisions provided by a collective bargaining agreement must meet the requirements of RCW 49.46.200 through 49.46.830 and the rules adopted by the department of labor and industries, except the payment of leave at the normal hourly compensation may occur before usage."

Correct the title.

EFFECT: Narrows the exemption to apply only to construction workers. Provides that the sick leave benefits under the workers' collective bargaining agreement must be equivalent to those in state law, rather than meeting or exceeding those in state law, to qualify for the exemption. Specifies that equivalent sick leave provisions are those that meet the requirements in state law, except that the payment of leave may occur before usage. Adds references to the act in the existing paid sick leave requirements. Removes the requirement that collective bargaining agreements under the exemption be submitted to the Department of Labor and Industries.