

**SB 5233** - H COMM AMD

By Committee on Labor & Workplace Standards

**ADOPTED 04/04/2019**

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that Initiative  
4 1433 is a good law approved by the voters to establish sick leave  
5 benefits for workers. The law creates necessary worker protections  
6 while simultaneously reducing the spread of communicable sickness and  
7 disease and addressing other public health and safety concerns.

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

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

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

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

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

30 (d) Beginning January 1, 2020, and until January 1, 2021, every  
31 employer shall pay to each of his or her employees who has reached

1 the age of eighteen years wages at a rate of not less than thirteen  
2 dollars and fifty cents per hour.

3 (2) (a) Beginning on January 1, 2021, and each following January  
4 1st as set forth under (b) of this subsection, every employer shall  
5 pay to each of his or her employees who has reached the age of  
6 eighteen years wages at a rate of not less than the amount  
7 established under (b) of this subsection.

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

18 (3) An employer must pay to its employees: (a) All tips and  
19 gratuities; and (b) all service charges as defined under RCW  
20 49.46.160 except those that, pursuant to RCW 49.46.160, are itemized  
21 as not being payable to the employee or employees servicing the  
22 customer. Tips and service charges paid to an employee are in  
23 addition to, and may not count towards, the employee's hourly minimum  
24 wage.

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

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

30 **Sec. 3.** RCW 49.46.210 and 2017 c 2 s 5 are each amended to read  
31 as follows:

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

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

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

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

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

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

17 (c) An employee is authorized to use paid sick leave for absences  
18 that qualify for leave under the domestic violence leave act, chapter  
19 49.76 RCW.

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

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

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

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

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

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

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

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

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

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

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

30 (c) A spouse;

31 (d) A registered domestic partner;

32 (e) A grandparent;

33 (f) A grandchild; or

34 (g) A sibling.

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

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

1        NEW SECTION.    **Sec. 4.**    A new section is added to chapter 49.46  
2    RCW to read as follows:  
3        (1) The sick leave provisions of RCW 49.46.200 through 49.46.830  
4    shall not apply to construction workers covered by a collective  
5    bargaining agreement, provided:  
6        (a) The union signatory to the collective bargaining agreement is  
7    an approved referral union program authorized under RCW 50.20.010 and  
8    in compliance with WAC 192-210-110; and  
9        (b) The collective bargaining agreement establishes equivalent  
10    sick leave provisions, as provided in subsection (2) of this section;  
11    and  
12        (c) The requirements of RCW 49.46.200 through 49.46.830 are  
13    expressly waived in the collective bargaining agreement in clear and  
14    unambiguous terms or in an addendum to an existing agreement  
15    including an agreement that is open for negotiation provided the sick  
16    leave portions were previously ratified by the membership.  
17        (2) Equivalent sick leave provisions provided by a collective  
18    bargaining agreement must meet the requirements of RCW 49.46.200  
19    through 49.46.830 and the rules adopted by the department of labor  
20    and industries, except the payment of leave at the normal hourly  
21    compensation may occur before usage."  
22        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.

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