
HOUSE BILL 2238

State of Washington

63rd Legislature

2014 Regular Session

By Representatives Tarleton, Moscoso, Hunt, Freeman, Ormsby, Pollet, Reykdal, Bergquist, Moeller, Appleton, Goodman, and Walkinshaw

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

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.

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

4 (1) "Department" and "director" have the same meaning as in RCW
5 49.12.005.

6 (2) "Employee" means an individual employed by an employer who
7 works an average of twenty or more hours per week.

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 which employs twenty-five or more employees for each working day
12 during each of twenty or more calendar work weeks in the current or
13 preceding calendar year. "Employer" also means the state, and any unit
14 of local government including, but not limited to, a county, city,
15 town, municipal corporation, quasi-municipal corporation, or political
16 subdivision, that employs twenty-five 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.

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

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

24 (2) After the initial six-month period, an employee is entitled to
25 accrue leave while the employee works for the employer, as follows:

26 (a) Forty hours for the twelve-month period following the initial
27 six-month period;

28 (b) Sixty hours for the twelve-month period beginning with the
29 eighteenth month of employment;

30 (c) Eighty hours for each twelve-month period beginning after the
31 thirtieth month of employment; and

32 (d) One hundred twenty hours for each twelve-month period beginning
33 after the sixtieth month of employment.

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

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

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

5 NEW SECTION. **Sec. 4.** REQUESTS FOR LEAVE. An employee's right to
6 use accrued leave at a particular time, including requests for and
7 approval of leave, is determined by employer policy.

8 NEW SECTION. **Sec. 5.** COMPENSATION. An employer must compensate
9 an employee who uses vacation leave at the same pay and with the same
10 benefits, including employer-provided health care benefits, as the
11 employee would have earned during the time leave is taken.

12 NEW SECTION. **Sec. 6.** RECORDKEEPING. An employer shall provide
13 current information to each employee on the employee's accrued amount
14 of vacation leave. An employer may use any system, including a
15 notification on pay stubs or online system, that provides employees
16 with information about their vacation leave.

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

21 (2) If the director determines that a violation has occurred, the
22 director must issue a notice of infraction and may order the employer
23 to comply with section 3 of this act, including to credit the employee
24 with accrued leave. The director may also order an employer found to
25 have committed an infraction to pay: (a) A civil penalty of five
26 hundred dollars for a first violation and one thousand dollars for a
27 subsequent violation; and (b) compensation to the department for the
28 costs of investigating and remedying the violation.

29 (3) Appeal from the director's decision is governed by chapter
30 34.05 RCW.

31 NEW SECTION. **Sec. 8.** MORE GENEROUS POLICIES. This chapter
32 provides minimum vacation leave requirements and is not intended to
33 discourage and does not prohibit an employer from adopting or retaining

1 a leave policy more generous than any policies that comply with this
2 chapter, or as diminishing the obligation of any employer to comply
3 with any contract, collective bargaining agreement, employment benefit
4 plan, or other agreement providing more generous vacation leave than
5 required under this chapter.

6 NEW SECTION. **Sec. 9.** RELATIONSHIP TO OTHER LAWS. This chapter
7 does not preempt, limit, or otherwise affect the applicability of any
8 other law, regulation, rule, requirement, policy, or standard,
9 including any law or ordinance of a local government, that provides for
10 greater accrual by employees of paid vacation leave or other leave, or
11 extends other protections to employees.

12 NEW SECTION. **Sec. 10.** WAIVER/COLLECTIVE BARGAINING. (1) The
13 requirements of this chapter do not apply to any employees covered by
14 a bona fide collective bargaining agreement to the extent that the
15 requirements are expressly waived in the collective bargaining
16 agreement in clear and unambiguous terms.

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

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

22 NEW SECTION. **Sec. 11.** NOTICE. (1) An employer must give notice
23 to employees regarding this chapter. An employer may comply by
24 providing the information on a notice to each employee or on a poster
25 displayed in a conspicuous place on the premises of the employer where
26 notices to employees and applicants are customarily posted. The notice
27 must be in English and in any language that is the first language
28 spoken by at least five percent of the employer's workforce.

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

31 NEW SECTION. **Sec. 12.** STUDY. (1) The Washington state institute
32 for public policy shall evaluate the impact of this chapter on the
33 economy of this state and the health and well-being of employees. The
34 evaluation shall include a survey of employers and employees. In

1 addition, the institute shall study the feasibility of the department
2 or another state agency offering a commercial, nonproprietary online
3 system for employers and employees to track vacation leave. The
4 department shall cooperate with the institute.

5 (2) The institute shall report to the appropriate committees of the
6 legislature by December 1, 2016, on its evaluation regarding the impact
7 of this chapter and recommendations regarding an online system to track
8 vacation leave.

9 NEW SECTION. **Sec. 13.** RULES. The department may adopt rules to
10 implement this chapter.

11 NEW SECTION. **Sec. 14.** SEVERABILITY. If any provision of this act
12 or its application to any person or circumstance is held invalid, the
13 remainder of the act or the application of the provision to other
14 persons or circumstances is not affected.

15 NEW SECTION. **Sec. 15.** Sections 1 through 13 of this act
16 constitute a new chapter in Title 49 RCW.

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