

CERTIFICATION OF ENROLLMENT

SENATE BILL 5233

Chapter 236, Laws of 2019

66th Legislature
2019 Regular Session

CONSTRUCTION WORKERS--SICK LEAVE COLLECTIVE BARGAINING

EFFECTIVE DATE: July 28, 2019

Passed by the Senate April 19, 2019
Yeas 47 Nays 0

CYRUS HABIB

President of the Senate

Passed by the House April 4, 2019
Yeas 92 Nays 1

FRANK CHOPP

Speaker of the House of Representatives

Approved April 30, 2019 3:25 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5233** as passed by the Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON

Secretary

FILED

May 1, 2019

**Secretary of State
State of Washington**

SENATE BILL 5233

AS AMENDED BY THE HOUSE

Passed Legislature - 2019 Regular Session

State of Washington

66th Legislature

2019 Regular Session

By Senators Keiser and Conway

Read first time 01/16/19. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to creating an alternative process for sick leave
2 benefits for workers represented by collective bargaining agreements;
3 amending RCW 49.46.020 and 49.46.210; adding a new section to chapter
4 49.46 RCW; and creating a new section.

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

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

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

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

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

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

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

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

17 (2) (a) Beginning on January 1, 2021, and each following January
18 1st as set forth under (b) of this subsection, every employer shall
19 pay to each of his or her employees who has reached the age of
20 eighteen years wages at a rate of not less than the amount
21 established under (b) of this subsection.

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

32 (3) An employer must pay to its employees: (a) All tips and
33 gratuities; and (b) all service charges as defined under RCW
34 49.46.160 except those that, pursuant to RCW 49.46.160, are itemized
35 as not being payable to the employee or employees servicing the
36 customer. Tips and service charges paid to an employee are in
37 addition to, and may not count towards, the employee's hourly minimum
38 wage.

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

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

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

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

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

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

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

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

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

32 (c) An employee is authorized to use paid sick leave for absences
33 that qualify for leave under the domestic violence leave act, chapter
34 49.76 RCW.

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

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

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

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

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

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

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

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

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

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

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

9 (c) A spouse;

10 (d) A registered domestic partner;

11 (e) A grandparent;

12 (f) A grandchild; or

13 (g) A sibling.

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

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

20 NEW SECTION. **Sec. 4.** A new section is added to chapter 49.46
21 RCW to read as follows:

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

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

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

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

36 (2) Equivalent sick leave provisions provided by a collective
37 bargaining agreement must meet the requirements of RCW 49.46.200
38 through 49.46.830 and the rules adopted by the department of labor

1 and industries, except the payment of leave at the normal hourly
2 compensation may occur before usage.

Passed by the Senate April 19, 2019.

Passed by the House April 4, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

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