

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5793

68th Legislature
2024 Regular Session

Passed by the Senate February 7, 2024
Yeas 28 Nays 21

President of the Senate

Passed by the House February 27, 2024
Yeas 76 Nays 19

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5793** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5793

Passed Legislature - 2024 Regular Session

State of Washington

68th Legislature

2024 Regular Session

By Senate Labor & Commerce (originally sponsored by Senators Saldaña, Keiser, Kuderer, Lovelett, Nobles, Stanford, Valdez, and C. Wilson)

READ FIRST TIME 01/24/24.

1 AN ACT Relating to paid sick leave; amending RCW 49.46.210;
2 creating a new section; and providing an effective date.

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

4 **Sec. 1.** RCW 49.46.210 and 2023 c 267 s 1 are each amended to
5 read as follows:

6 (1) Beginning January 1, 2018, except as provided in RCW
7 49.46.180, every employer shall provide each of its employees paid
8 sick leave as follows:

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

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

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

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

6 (iii) When the employee's place of business has been closed by
7 order of a public official for any health-related reason, or when an
8 employee's child's school or place of care has been closed for such a
9 health-related reason or after the declaration of an emergency by a
10 local or state government or agency, or by the federal government.

11 (c) An employee is authorized to use paid sick leave for absences
12 that qualify for leave under the domestic violence leave act, chapter
13 49.76 RCW.

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

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

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

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

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

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

1 (j) Except as provided in (l) of this subsection, accrued and
2 unused paid sick leave carries over to the following year, but an
3 employer is not required to allow an employee to carry over paid sick
4 leave in excess of 40 hours.

5 (k) Except as provided in (l) of this subsection, an employer is
6 not required to provide financial or other reimbursement for accrued
7 and unused paid sick leave to any employee upon the employee's
8 termination, resignation, retirement, or other separation from
9 employment. When there is a separation from employment and the
10 employee is rehired within 12 months of separation by the same
11 employer, whether at the same or a different business location of the
12 employer, previously accrued unused paid sick leave shall be
13 reinstated and the previous period of employment shall be counted for
14 purposes of determining the employee's eligibility to use paid sick
15 leave under (~~subsection (1)~~) (d) of this (~~section~~) subsection. For
16 purposes of this subsection (l)(k), "previously accrued and unused
17 paid sick leave" does not include sick leave paid out to a
18 construction worker under (l) of this subsection.

19 (l) For workers covered under the North American industry
20 classification system industry code 23, except for North American
21 industry classification system code 236100, residential building
22 construction, who have not met the 90th day eligibility under (d) of
23 this subsection at the time of separation, the employer must pay the
24 former worker the balance of their accrued and unused paid sick leave
25 at the end of the established pay period, pursuant to RCW
26 49.48.010(2), following the worker's separation.

27 (~~For purposes of this section, "family member" means any of~~
28 ~~the following~~) The definitions in this subsection apply throughout
29 this section, except for subsection (5) of this section:

30 (a) (~~A child, including~~) "Family member" means a child,
31 grandchild, grandparent, parent, sibling, or spouse of an employee,
32 and also includes any individual who regularly resides in the
33 employee's home or where the relationship creates an expectation that
34 the employee care for the person, and that individual depends on the
35 employee for care. "Family member" includes any individual who
36 regularly resides in the employee's home, except that it does not
37 include an individual who simply resides in the same home with no
38 expectation that the employee care for the individual.

39 (b) "Child" means a biological, adopted, or foster child, a
40 stepchild, a child's spouse, or a child to whom the employee stands

1 in loco parentis, is a legal guardian, or is a de facto parent,
2 regardless of age or dependency status(~~(†)~~).

3 (c) "Grandchild" means a child of the employee's child.

4 (d) "Grandparent" means a parent of the employee's parent.

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

10 ~~(c) A spouse;~~

11 ~~(d) A registered domestic partner;~~

12 ~~(e) A grandparent;~~

13 ~~(f) A grandchild; or~~

14 ~~(g) A sibling).~~

15 (f) "Spouse" means a husband or wife, as the case may be, or
16 state registered domestic partner.

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

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

23 (5)(a) The definitions in this subsection apply to this
24 subsection:

25 (i) "Average hourly compensation" means a driver's compensation
26 during passenger platform time from, or facilitated by, the
27 transportation network company, during the 365 days immediately prior
28 to the day that paid sick time is used, divided by the total hours of
29 passenger platform time worked by the driver on that transportation
30 network company's driver platform during that period. "Average hourly
31 compensation" does not include tips.

32 (ii) "Driver," "driver platform," "passenger platform time," and
33 "transportation network company" have the meanings provided in RCW
34 49.46.300.

35 (iii) "Earned paid sick time" is the time provided by a
36 transportation network company to a driver as calculated under this
37 subsection. For each hour of earned paid sick time used by a driver,
38 the transportation network company shall compensate the driver at a
39 rate equal to the driver's average hourly compensation.

1 (iv) For purposes of drivers, (~~("family member" means any of the~~
2 ~~following))~~ the following definitions apply:

3 (A) (~~(A child, including))~~ "Family member" means a child,
4 grandchild, grandparent, parent, sibling, or spouse of a driver, and
5 also includes any individual who regularly resides in the driver's
6 home or where the relationship creates an expectation that the driver
7 care for the person, and that individual depends on the driver for
8 care. "Family member" includes any individual who regularly resides
9 in the driver's home, except that it does not include an individual
10 who simply resides in the same home with no expectation that the
11 driver care for the individual.

12 (B) "Child" means a biological, adopted, or foster child, a
13 stepchild, a child's spouse, or a child to whom the driver stands in
14 loco parentis, is a legal guardian, or is a de facto parent,
15 regardless of age or dependency status(~~(†)~~).

16 (C) "Grandchild" means a child of the driver's child.

17 (D) "Grandparent" means a parent of the driver's parent.

18 (~~(B) A~~) (E) "Parent" means the biological, adoptive, de facto,
19 or foster parent, stepparent, or legal guardian of a driver or the
20 driver's spouse (~~(or registered domestic partner)~~), or (~~(a person)~~)
21 an individual who stood in loco parentis to a driver when the driver
22 was a (~~(minor)~~) child(~~(†)~~

23 ~~(C) A spouse;~~

24 ~~(D) A registered domestic partner;~~

25 ~~(E) A grandparent;~~

26 ~~(F) A grandchild; or~~

27 ~~(G) A sibling).~~

28 (F) "Spouse" means a husband or wife, as the case may be, or
29 state registered domestic partner.

30 (b) Beginning January 1, 2023, a transportation network company
31 must provide to each driver operating on its driver platform
32 compensation for earned paid sick time as required by this subsection
33 and subject to the provisions of this subsection. A driver shall
34 accrue one hour of earned paid sick time for every 40 hours of
35 passenger platform time worked.

36 (c) A driver is entitled to use accrued earned paid sick time
37 upon recording 90 hours of passenger platform time on the
38 transportation network company's driver platform.

39 (d) For each hour of earned paid sick time used, a driver shall
40 be paid the driver's average hourly compensation.

1 (e) A transportation network company shall establish an
2 accessible system for drivers to request and use earned paid sick
3 time. The system must be available to drivers via smartphone
4 application and online web portal.

5 (f) A driver may carry over up to 40 hours of unused earned paid
6 sick time to the next calendar year. If a driver carries over unused
7 earned paid sick time to the following year, accrual of earned paid
8 sick time in the subsequent year must be in addition to the hours
9 accrued in the previous year and carried over.

10 (g) A driver is entitled to use accrued earned paid sick time if
11 the driver has used the transportation network company's platform as
12 a driver within 90 calendar days preceding the driver's request to
13 use earned paid sick time.

14 (h) A driver is entitled to use earned paid sick time for the
15 following reasons:

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

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

26 (iii) When the driver's child's school or place of care has been
27 closed by order of a public official for any health-related reason or
28 has been closed after the declaration of an emergency by a local or
29 state government or agency, or by the federal government;

30 (iv) For absences for which an employee would be entitled for
31 leave under RCW 49.76.030; and

32 (v) During a deactivation or other status that prevents the
33 driver from performing network services on the transportation network
34 company's platform, unless the deactivation or status is due to a
35 verified allegation of sexual assault or physical assault perpetrated
36 by the driver.

37 (i) If a driver does not record any passenger platform time in a
38 transportation network company's driver platform for 365 or more
39 consecutive days, any unused earned paid sick time accrued up to that

1 point with that transportation network company is no longer valid or
2 recognized.

3 (j) Drivers may use accrued days of earned paid sick time in
4 increments of a minimum of four or more hours. Drivers are entitled
5 to request four or more hours of earned paid sick time for immediate
6 use, including consecutive days of use. Drivers are not entitled to
7 use more than eight hours of earned paid sick time within a single
8 calendar day.

9 (k) A transportation network company shall compensate a driver
10 for requested hours or days of earned paid sick time no later than 14
11 calendar days or the next regularly scheduled date of compensation
12 following the requested hours or days of earned paid sick time.

13 (l) A transportation network company shall not request or require
14 reasonable verification of a driver's qualifying illness except as
15 would be permitted to be requested of an employee under subsection
16 (1)(g) of this section. If a transportation network company requires
17 verification pursuant to this subsection, the transportation network
18 company must compensate the driver for the requested hours or days of
19 earned paid sick time no later than the driver's next regularly
20 scheduled date of compensation after satisfactory verification is
21 provided.

22 (m) If a driver accepts an offer of prearranged services for
23 compensation from a transportation network company during the four-
24 hour period or periods for which the driver requested earned paid
25 sick time, a transportation network company may determine that the
26 driver did not use earned paid sick time for an authorized purpose.

27 (n) A transportation network company shall provide each driver
28 with:

29 (i) Written notification of the current rate of average hourly
30 compensation while a passenger is in the vehicle during the most
31 recent calendar month for use of earned paid sick time;

32 (ii) An updated amount of accrued earned paid sick time since the
33 last notification;

34 (iii) Reduced earned paid sick time since the last notification;

35 (iv) Any unused earned paid sick time available for use; and

36 (v) Any amount that the transportation network company may
37 subtract from the driver's compensation for earned paid sick time.

38 The transportation network company shall provide this information to
39 the driver no less than monthly. The transportation network company
40 may choose a reasonable system for providing this notification,

1 including but not limited to: A pay stub; a weekly summary of
2 compensation information; or an online system where drivers can
3 access their own earned paid sick time information. A transportation
4 network company is not required to provide this information to a
5 driver if the driver has not worked any days since the last
6 notification.

7 (o) A transportation network company may not adopt or enforce any
8 policy that counts the use of earned paid sick time as an absence
9 that may lead to or result in any action that adversely affects the
10 driver's use of the transportation network.

11 (p) A transportation network company may not take any action
12 against a driver that adversely affects the driver's use of the
13 transportation network due to his or her exercise of any rights under
14 this subsection including the use of earned paid sick time.

15 (q) The department may adopt rules to implement this subsection.

16 NEW SECTION. **Sec. 2.** This act takes effect January 1, 2025.

17 NEW SECTION. **Sec. 3.** The department of labor and industries
18 must develop materials and conduct outreach to inform individuals and
19 businesses of the new provisions of this act.

--- END ---