

ALASKA STATE LEGISLATURE

Finance Committee
•
Health & Social Services Committee
•
Legislative Council
•
Committee on Committees



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SENATE MAJORITY LEADER JOHNNY ELLIS

SPONSOR STATEMENT – SENATE BILL 86 “An act allowing employees to earn paid sick leave”

According to an article in the January 27th, 2009 issue of Forbes magazine, businesses are losing \$180 billion a year from unproductive and absent employees. The article recommends paid sick leave as a possible solution.

Senate Bill 86 would allow employees to earn paid sick leave by accruing paid time off at a rate of 1 hour for every 40 hours worked. This equates to approximately 6.5 days of paid sick leave per year for the average full time employee.

Recent estimates by the U.S. Department of Labor reveal approximately 122,000 Alaskans currently work full-time with no policy for paid sick leave. Without a single guaranteed paid day off, these Alaskans are forced to choose between their own health and their paycheck. Low-wage workers are hit hardest, with retail, hospitality, restaurant and daycare workers unable to care for themselves or their loved ones if they become sick.

Alaskans who handle our food, groceries or care for our children and elderly are being forced to decide whether their paycheck or their health is more important. People coming to work sick is not only a public health risk but it is also bad for business. Providing paid sick leave to those who earn it saves businesses money through decreased turnover and more productive employees.

I urge your support of Senate Bill 86

SENATE BILL NO. 86

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY SENATOR ELLIS

Introduced: 1/26/09

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing requirements and limitations related to the payment of sick leave
2 by certain employers; and providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 23.10.105 is amended to read:

5 **Sec. 23.10.105. Posting summary required.** An employer subject to
6 AS 23.10.050 - 23.10.150 or 23.10.166 shall keep a summary or abstract of the
7 applicable [THESE] sections, approved by the commissioner, posted in a conspicuous
8 location at the place where a person subject to them is employed. An employer shall
9 be furnished copies of a summary by the state on request without charge.

10 * **Sec. 2.** AS 23.10.110(a) is amended to read:

11 (a) An employer subject to AS 23.10.010 - 23.10.150 who violates a
12 provision of AS 23.10.060 or 23.10.065, or an employer subject to AS 23.10.166
13 who violates a provision of that section, is liable to an employee affected in the
14 amount of unpaid minimum wages, [OR] unpaid overtime compensation, or unpaid

1 sick leave, as the case may be, and, except as provided in (d) of this section, in an
2 additional equal amount as liquidated damages.

3 * **Sec. 3.** AS 23.10.110(b) is amended to read:

4 (b) An action to recover from the employer the wages and damages for which
5 the employer is liable may be maintained in a competent court by an employee
6 personally and for other employees similarly situated, or an employee may
7 individually designate in writing an agent or representative to maintain an action for
8 the employee. The consent shall be filed in the court in which the action is brought. At
9 the request of a person paid less than the amount to which the person is entitled under
10 AS 23.10.050 - 23.10.150 or 23.10.166, the commissioner may take an assignment in
11 trust for the employee of the full amount to which the employee is entitled under this
12 section and may bring any legal action necessary to collect the claim.

13 * **Sec. 4.** AS 23.10 is amended by adding a new section to article 3 to read:

14 **Sec. 23.10.166. Minimum paid sick leave.** (a) An employer shall provide at
15 least one hour of paid sick leave for every 40 hours worked to each employee who
16 resides in the state and whose terms and conditions of employment are not subject to
17 bargaining between the employer and a collective bargaining agent. An employee who
18 accrues paid sick leave may begin using it on a date agreed to by the employer or a
19 date 90 days after the employee begins working for the employer, whichever occurs
20 first. An employee may carry over unused paid sick leave from year to year.

21 (b) An employer is not subject to this section if the employer offers paid leave
22 to each of its employees who reside in the state and if that leave

23 (1) accrues at a rate that is equal to or greater than 1 hour for every 40
24 hours worked;

25 (2) may be carried over from year to year; and

26 (3) may be used as provided by this section.

27 (c) For the purpose of this section, a full-time employee who is exempt from
28 the overtime requirements of 29 U.S.C. 213(a)(1) shall be considered to have worked
29 40 hours for each full work week the employee completes.

30 (d) Subject to the limitations of this section, an employer shall permit an
31 employee to use paid sick leave for

1 (1) the prevention, diagnosis, or treatment of the employee or a
2 member of the employee's immediate family for a mental or physical illness, injury, or
3 health condition;

4 (2) time the employee spends away from work because the employee
5 is the victim of a sexual assault, domestic violence, or stalking crime in which a
6 person has been arrested or formally charged.

7 (e) An employer who violates this section is subject to AS 23.10.110. An
8 employer violates this section if the employer

9 (1) hinders or delays the commissioner or an authorized representative
10 of the commissioner in the performance of a duty related to the enforcement of this
11 section;

12 (2) refuses to admit the commissioner or an authorized representative
13 of the commissioner to any place of employment as may be required for the
14 enforcement of this section;

15 (3) refuses to make a record accessible, or to furnish a sworn statement
16 of the record, or to give information required for the enforcement of this section, upon
17 demand, to the commissioner or an authorized representative of the commissioner;

18 (4) fails to post a summary or abstract of this section as required by
19 AS 23.10.105; or

20 (5) discharges or in any other manner discriminates against an
21 employee because the employee has filed a complaint, instituted or caused to be
22 instituted any proceeding under or related to this section, or testified or is about to
23 testify in a proceeding under or related to this section.

24 (f) In this section,

25 (1) "domestic partner" means a person who is cohabiting with another
26 person in a relationship that is like a marriage but that is not a legal marriage;

27 (2) "employee's immediate family" means

28 (A) a spouse or domestic partner of the employee; or

29 (B) a parent, child, including a stepchild and an adoptive child,
30 and sibling of the employee if the parent, child, or sibling resides with the
31 employee;

1 (3) "employer" means a person, other than a federal, state, or
2 municipal government, who employs any combination of 15 or more full-time, part-
3 time, and temporary employees who are compensated under an express or implied
4 contract of hire that is oral or written;

5 (4) "paid sick leave" means time that is compensated at the same
6 hourly rate and with the same benefits that the employee would earn while working.

7 * **Sec. 5.** This Act takes effect October 1, 2009.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 86
 () Publish Date: _____

Identifier (file name): SB086-DOLWD-WH-03-06-09 Dept. Affected: Labor and Workforce Development
 Title: Paid Sick Leave RDU: Labor Standard & Safety
 Component: Wage and Hour
 Sponsor: Senator Ellis
 Requester: Senate Labor and Commerce Component Number: 345

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	Appropriation Required	Information					
	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Personal Services	147.2		147.2	73.6	73.6	73.6	73.6
Travel	10.0		10.0	5.0	5.0	5.0	5.0
Contractual	27.8		27.8	13.9	13.9	13.9	13.9
Supplies	7.6		1.0	0.5	1.8	0.5	0.5
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	192.6	0.0	186.0	93.0	94.3	93.0	93.0

CAPITAL EXPENDITURES							
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CHANGE IN REVENUES ()							
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF	192.6		186.0	93.0	94.3	93.0	93.0
1005 GF/Program Receipts							
1037 GF/Mental Health							
1157 Worker Safety Account							
TOTAL	192.6	0.0	186.0	93.0	94.3	93.0	93.0

Estimate of any current year (FY2009) cost: None

POSITIONS

Full-time	2.0		2	1	1	1	1
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

The bill requires the Department of Labor and Workforce Development to investigate and take enforcement action concerning use of paid sick leave, unpaid sick leave and posting requirements. Due to the significant number of employers and employees that will be subject to this legislation (approximately 3,000 employers and 175,000 employees), the department anticipates the initial workload will require at least two full-time Wage and Hour Investigator I positions funded with General Funds.

Compliance with the new law is expected to improve through consistent outreach and enforcement, thus allowing a reduction in enforcement staff beginning in FY 2012. Costs for each position include \$73.6 for salary and benefits, \$5.0 for investigation travel, \$13.9 for contractual and \$.5 for office supplies and an additional \$3.3 for office furniture and equipment in the first year and an additional \$1.3 for computer equipment replacement in the fourth year.

Prepared by: Grey Mitchell, Director
 Division: Labor Standard & Safety
 Approved by: Click Bishop, Commissioner
 Agency: Department of Labor and Workforce Development

Phone 465-4855
 Date/Time 3/6/09 4:10 PM
 Date 3/6/09

A promotional banner for the Forbes Stock Picking Community. It features the Forbes logo on the left, a line graph showing an upward trend, and the text "Stock Picking Community". In the center, it says "JOIN THE STOCK PICKING COMMUNITY" with a "free" badge. On the right, it says "Pick your own portfolio, compete with the best performers, and learn!" and includes a "GET STARTED HERE" button with a right-pointing arrow.

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Business Basics

When Should You Call In Sick?

Tara Weiss, 01.27.09, 7:11 PM ET

Hacking. Coughing. Sneezing. Sometimes the workplace sounds less like an office and more like a hospital ward, especially now that we're at the height of cold and flu season.

If you're not feeling great, do yourself and your co-workers a favor: Call in sick. You'll likely get better faster and save your employer money.

Yes, there's a financial price to coming to work ill. It's called presenteeism, and it costs employers \$180 billion annually, according to a 2007 study by the Society for Human Resources Management. That's more than employers shell out for employee absenteeism, which costs only \$118 billion a year.

Sick employees don't just affect their own work; they infect co-workers who then need to take time off themselves. (Or who come in sick and spread the germs further.)

In Pictures: What To Remember About Calling In Sick

Most people do get paid time off. Some 57% of all private businesses offer paid sick leave, according to a 2007 report from the Department of Labor. Still, there's a natural worry that if you don't go in, the work won't get done, or it will pile up so high you'll never be able to get through it all. That's especially true these days, when it seems everyone is doing more work with less resources.

"People don't want to stay home and add to their co-workers' workloads just because they've got the sniffles," says Michael Smith, a physician who is chief medical editor for WebMD.com. "In the end it hurts more than it helps."

Yes, if it's really nothing more than sniffles, go on in. To be safe, wash your hands more often, don't touch anyone else's phone or keyboard and always cough or sneeze into a tissue.

Ideally, though, with any true cold, even just a minor one, you should work from home, Smith says. Definitely call in sick, he adds, if you've got a stuffed nose, cough, chest congestion or are throwing up. And never go into the office with a fever.

"If you've got any inkling of being contagious, it's just not fair to go in," says Wendy Nice Barnes, vice president of human resources at ehealthinsurance.com. She says people showing up at work sick are a much bigger concern than people missing work when they're not really ill.

But it's not only about being kind to your co-workers. "Staying home a day or two may shorten the illness," Smith points out.

Perhaps you'll feel better taking the day off if you know how many sick and personal days you have annually. When you call in sick, try to reach your manager directly by phone. Explain that you're not feeling well and you don't want to expose everyone else in the office to whatever you've got.

Since not everybody is so considerate, do what you can to stay healthy. Get a flu shot. Many employers offer them on-site for free or for less than at a doctor's office. Keep antibacterial soap handy for washing your hands, especially after interacting with a sick co-worker.

"The most common way to get a cold or the flu is by touching something contaminated by someone infected," Smith says.

"It's not someone sneezing or coughing in your face. It's them contaminating a phone."

Employers should do their part, too. The most significant action they can take is to offer subsidized flu shots, says Joyce Maroney, director of the Workforce Institute at Kronos, a provider of workforce management software. Also, it might seem corny, she says, but it's good to have signs up in public places about hygiene and safety information.

Above all, simply don't feel guilty about calling in sick.

In Pictures: What To Remember About Calling In Sick



hays research group

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Alaska Statewide 'Opinion Counts' Survey Results

Survey conducted 3/10/08 - 3/12/08

Remember to [click here](#) and add your email address to our new mailing list and receive survey results in your mailbox every month.

Survey Methodology

This survey was fielded March 10 -12, 2008 as part of the Hays Research Group Statewide Opinion Counts Survey. 401 completed respondents were interviewed. The margin of error for the data collected is +/- 4.86 % for a 401 response survey for the data analyzed in its entirety with a 95% confidence level; meaning that we can be 95% sure that if every resident of the State with working telephone numbers who have at least one member who has voted in at least two of the last four local or state elections was actually surveyed, the results would vary by no more than 4.86% in either direction.

The survey sample used was a computer generated random list derived from a database of all households within the State of Alaska with working telephone numbers who have at least one member who has voted in at least two of the last four local or state elections. The sample frame was designed to accurately reflect the actual population percentages.

Respondents were screened to confirm they were over 18 and each household was attempted at least four times over a period of several days to account for non-response bias. Data was analyzed utilizing SPSS Quancept Software. Interviews were conducted by trained staff with on-site supervision utilizing state of the art computer assisted telephone interviewing (CATI). Random interviews were monitored to assure quality control measures were followed. Dialing results were analyzed daily to assure statistically accurate distribution of call disposition in order to account for "non-response" variables.

Question 1

This question was paid for by the Alaska Public Interest Research Group

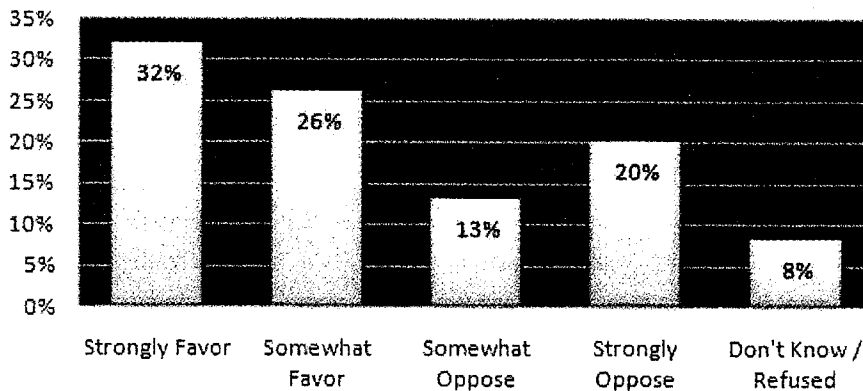
Answered by 401 out of 401

Currently the Alaska Legislature is considering a proposal to require employers to provide 1 hour of paid sick leave for every forty hours worked. This paid sick leave could be used by the employee to care for themselves or for an immediate family member. Every employee of a company with 15 or more employees would earn one hour of paid sick leave for every forty hours worked. Would you favor or oppose such a proposal, would that be strongly or somewhat favor/oppose?

Strongly Favor	128/401	32%
Somewhat Favor	106/401	26%
Somewhat Oppose	53/401	13%
Strongly Oppose	81/401	20%
Don't Know / Refused	33/401	8%

Public Opinion of Paid Sick Leave Proposal

3/12/08, m.o.e. 4.86%, n=401
Copyright 2008 Hays Research Group



Question 2

This question was paid for by the Alaska Public Interest Research Group

Answered by 401 out of 401

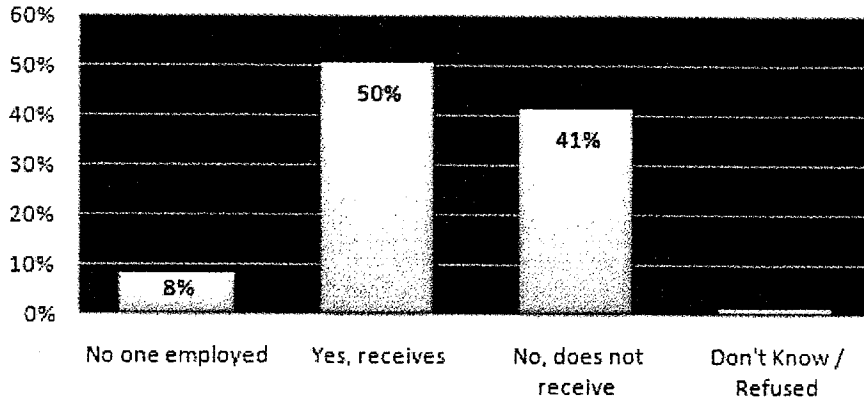
And can you tell me if you or another adult residing in your household currently receives paid sick leave provided by your employer?

No one employed	31/401	8%
Yes, receives	200/401	50%

No, does not receive	164/401	41%
Don't Know / Refused	6/401	1%

Does anyone in your household receive paid sick leave?

3/12/08, m.o.e. 4.86%, n=401
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Question 3

This question was paid for by the Alaska Public Interest Research Group

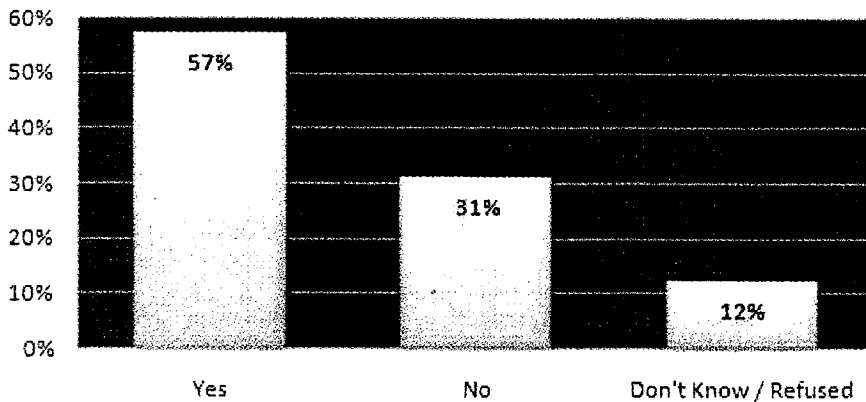
Answered by 401 out of 401

Do you think that paid sick days are a basic labor standard, similar to the minimum

Yes?	227/401	57%
No	126/401	31%
Don't Know / Refused	48/401	12%

Do you think paid sick days are a basic labor standard?

3/12/08, m.o.e. 4.86%, n=401
 Copyright 2008 Hays Research Group



[To view the results of other past surveys click here](#)

If you would like to have a question included in the next 'Opinion Counts' survey, or to get more information on our Hays Research Group's public opinion research services, please don't

Paid Sick Days Make Good Business Sense

- **Healthy workers are critical to productive and vibrant economy.** By providing paid sick days, employers would benefit from reduced turnover, higher productivity, and reducing the spread of contagion in the workplace. If workers were provided just 7 paid sick days per year, our national economy would experience a net savings of over \$8.1 billion per year.¹
- **Workers faced with illness repeatedly go to work sick, spreading illnesses to their colleagues and lowering overall productivity.** More than half (56%) of HR executives say that “presenteeism” - employees coming to work even though they are ill, which poses potential problems of contagion and lower productivity – is a problem in their companies.²
- **Our national economy can’t afford presenteeism.** Presenteeism costs our national economy \$180 billion annually in lost productivity. For employers, this costs an average of \$255 per employee per year and exceeds the cost of absenteeism and medical and disability benefits.³
- **Paid sick days would provide significant savings in reduced turnover.** The costs of losing an employee (advertising for, interviewing and training a replacement) is often far greater than the cost of providing short-term leave to retain existing employees. In a recent cost benefit analysis of the Healthy Families Act, reduced turnover accounted for the majority of savings.
- **A minimum amount of paid sick days levels the playing field for covered employers** and will have no impact on companies that already provide paid sick leave. Offering workers the option of taking time off when a family member is sick affects profits positively.⁴
- **Everyone gains.** Children and family members will receive the care they need, employers will experience savings in reduced turnover, consumers will be less likely to catch an illness from public spaces, and all will benefit from an overall improvement in well-being.

¹ Testimony of Dr. Heidi Hartmann, Institute for Women’s Policy Research, before the U.S. Senate Committee on Health, Education, Labor, and Pensions, 2006.

² CCH Incorporated, *2006 CCH Unscheduled Absence Survey*, October 2006.

³ Ron Goetzal, et al, *Health Absence, Disability, and Presenteeism Cost Estimates of Certain Physical and Mental Health Conditions Affecting U.S. Employers*, *Journal of Occupational and Environmental Medicine*, April 2004.

⁴ Christine Siegwath Meyer, et al, *Work-Family Benefits: Which Ones Maximize Profits?*, *Journal of Managerial Issues*, vol. 13, no. 1, Spring 2001.



Alaska

March 5, 2009

**The Honorable Johnny Ellis
Alaska State Senate
State Capitol Building
Juneau, Alaska 99801-1182**

RE: Senate Bill 86

Dear Senator Ellis,

On behalf of the National Federation of Independent Business/Alaska, I wish to express our opposition to Senate Bill 86. The National Federation of Independent Business is the largest small-business advocacy group in the Alaska.

Senate Bill 86 mandates a new employee benefit on employers without consideration for the cost to the employer. It interjects the state into an area of employee benefits that should be left to the employment arrangements between employers and employees by mandating this policy on employers, you limit the ability of an employer to structure the benefit package to fit the unique needs of its employees.

The bill discriminates against private nonunion employers by exempting government employers and employers who may have collective bargaining agreements, which are not required to provide this mandated benefit.

The current economic situation is stressing many small employers. Added government mandates add to that stress and put jobs of many Alaskans at risk.

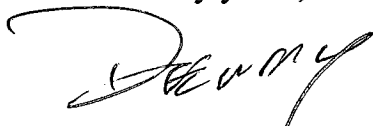
The Honorable Johnny Ellis

March 5, 2009

Page 2

Along with our general opposition to unfunded government mandates on employers, we would strongly suggest that this is not the time to add cost to businesses in Alaska. This is a time to assure that employers are able to stay in business and employ Alaskans.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Dennis L. DeWitt". The signature is written in a cursive style with a large initial "D" and a long, sweeping underline.

Dennis L. DeWitt
Alaska State Director

✓ Cc: Senate Labor & Commerce Committee