

SENATE BILL NO. 86

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY SENATORS ELLIS, Davis

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.