

An Overview of the Paid Sick Leave Law

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COVERED EMPLOYERS

- **"Employer"** – means any person, firm, business, educational institution, nonprofit agency, corporation, limited liability company or other entity **that employs 50 or more individuals in CT**
 - based on the payroll for the week containing October 1, annually

COVERED EMPLOYERS

- **No employer shall:**
 - **(1) terminate any employee**
 - **(2) dismiss any employee, OR**
 - **(3) transfer any employee from one worksite to another solely to avoid qualifying as an “employer” subject to this law.**

EXEMPT EMPLOYERS

- **"Employer" does NOT include:**
 - (A) Any business establishment classified in sector 31, 32 or 33 in the North American Industrial Classification System, or
 - (B) any nationally chartered organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, that provides all of the following services: Recreation, child care and education

EXEMPT EMPLOYERS

Manufacturers

- ❑ **NAICS – refers to one facility as an “establishment” (generally a single physical location) and an entire company as an “enterprise”**
- ❑ **Each “establishment” should be assessed separately to determine if primary business activity falls within sector 31, 32 or 33**
 - **www.census.gov/naics**
- ❑ **Employer may have one facility subject to the law and other facilities that are not**

EXEMPT EMPLOYERS

Non-profits (YMCA/YWCA)

- **Must be all of the below**
 - **Nationally chartered, AND**
 - **Provide:**
 - **Recreation**
 - **Child care, AND**
 - **Education**

SERVICE WORKER

- **"Service worker" - means an employee primarily engaged in an occupation with one of the broad or detailed occupation code numbers and titles, listed in the law, as defined by the federal Bureau of Labor Statistics Standard Occupational Classification system or any successor system**
 - **paid on an hourly basis, or**
 - **not exempt from minimum wage and overtime requirements**

SERVICE WORKER

- ❑ Website for classifications: www.bls.gov/soc
- ❑ If job title is not listed specifically, does not mean job not included – must read the broad and detailed occupations and descriptions
- ❑ If service worker does more than one job - use classification in which the service worker is primarily engaged
- ❑ If employee in listed classification, must also be:
 - paid on an hourly basis, or
 - not exempt from minimum wage and overtime requirements

SERVICE WORKER

- ❑ **Food Service Managers 11-9050**
- ❑ **Medical and Health Services Managers 11-9110**
- ❑ **Social Workers 21-1020**
- ❑ **Social and Human Service Assistants 21-1093**
- ❑ **Community Health Workers 21-1094**
- ❑ **Community and Social Service Specialists, All Other 21-1099**
- ❑ **Librarians 25-4020**
- ❑ **Pharmacists 29-1050**
- ❑ **Physician Assistants 29-1070**
- ❑ **Therapists 29-1120**
- ❑ **Registered Nurses 29-1140**
- ❑ **Nurse Anesthetists 29-1150; Nurse Midwives 29-1160**
- ❑ **Nurse Practitioners 29-1170**
- ❑ **Dental Hygienists 29-2020**
- ❑ **Radiologic Technologists 29-2034**
- ❑ **Emergency Medical Technicians and Paramedics 29-2040**
- ❑ **Health Practitioner Support Technologists and Technicians 29-2050**
- ❑ **Licensed Practical and Licensed Vocational Nurses 29-2060**
- ❑ **Home Health Aides 31-1011**
- ❑ **Nursing Aides, Orderlies, and Attendants 31-1012**
- ❑ **Psychiatric Aides 31-1013**
- ❑ **Dental Assistants 31-9091**
- ❑ **Medical Assistants 31-9092**
- ❑ **Security Guards 33-9032**
- ❑ **Crossing Guards 33-9091**

SERVICE WORKER

- ❑ **Supervisors of Food Preparation and Serving Workers 35-1010**
- ❑ **Cooks 35-2010**
- ❑ **Food Preparation Workers 35 -2020; Bartenders 35-3010**
- ❑ **Fast Food and Counter Workers 35-3020**
- ❑ **Waiters and Waitresses 35-3030**
- ❑ **Food Servers, Nonrestaurant 35-3040**
- ❑ **Dining Room and Cafeteria Attendants and Bartender Helpers 35-9010**
- ❑ **Dishwashers 35-9020**
- ❑ **Hosts and Hostesses, Restaurant, Lounge, and Coffee Shop 35-9030**
- ❑ **Miscellaneous Food Preparation and Serving Related Workers 35-9090**
- ❑ **Janitors and Cleaners, Except Maids and Housekeeping Cleaners 37-2011**
- ❑ **Building Cleaning Workers, All Other 37-2019**
- ❑ **Ushers, Lobby Attendants, and Ticket Takers 39-3030**
- ❑ **Barbers, Hairdressers, Hairstylists, and Cosmetologists 39-5010**
- ❑ **Baggage Porters, Bellhops, and Concierges 39-6010**
- ❑ **Child Care Workers 39-9010**
- ❑ **Personal Care Aides 39-9021**
- ❑ **First-Line Supervisors of Sales Workers 41-1010**
- ❑ **Cashiers 41-2011**
- ❑ **Counter and Rental Clerks 41-2021**
- ❑ **Retail Salespersons 41-2030**
- ❑ **Tellers 43-3070**
- ❑ **Hotel, Motel, and Resort Desk Clerks 43-4080**

SERVICE WORKER

- Receptionists and Information Clerks 43-4170
- Couriers and Messengers 43-5020
- Secretaries and Administrative Assistants 43-6010
- Computer Operators 43-9010
- Data Entry and Information Processing Workers 43-9020
- Desktop Publishers 43-9030
- Insurance Claims and Policy Processing Clerks 43-9040
- Mail Clerks and Mail Machine Operators, Except Postal Service 43-9050
- Office Clerks, General 43-9060
- Office Machine Operators, Except Computer 43-9070
- Proofreaders and Copy Markers 43-9080
- Statistical Assistants 43-9110
- Miscellaneous Office and Administrative Support Workers 43-9190
- Proofreaders and Copy Markers 43-9080
- Statistical Assistants 43-9110
- Miscellaneous Office and Administrative Support Workers 43-9190
- Bakers 51-3010
- Butchers and Other Meat, Poultry, and Fish Processing Workers 51-3020
- Miscellaneous Food Processing Workers 51-3090
- Ambulance Drivers and Attendants, Except Emergency Medical Technicians 53-3010
- Bus Drivers 53-3020
- Taxi Drivers and Chauffeurs 53-3040

EXEMPT EMPLOYEES

- **"Service worker"** - does NOT include day or temporary workers

- **"Day or temporary worker"** - means an individual who performs work for another on
 - (A) a per diem basis, or
 - (B) an occasional or irregular basis for only the time required to complete such work, whether such individual is paid by the person for whom such work is performed or by an employment agency or temporary help service

EXEMPT EMPLOYEES

- **Per diem** - is the individual being treated and acting like a per diem?
 - Can s/he accept or refuse work at will?
 - May be longer term assignment

- **Temporary worker** – will look at facts and circumstances of each case
 - An occasional or irregular basis for only the time required to complete such work
 - What is the assignment, length, duties, etc?

ACCRUAL

- **Each employer shall provide paid sick leave annually, which accrues:**
 - **(1) at a rate of 1 hour of for every 40 hours worked by a service worker, and**
 - **(2) in 1-hour increments up to a maximum of 40 hours per year**
 - **“Year” – means any 365 day period used by the employer to calculate employee benefits**

ACCRUAL – HOW MUCH

- **1 hour per every 40 hours worked**
 - Includes part-time service workers
 - Must be actual hours worked – not sick, vacation or other leave
 - 1 hour increments – accrued and used regardless of time-keeping system
 - Max out at 40 hours per year

CARRY OVER

- **Service workers are entitled to carry over up to 40 unused accrued hours of paid sick leave from the current year to the following year, no matter how many hours he/she has accumulated**
 - **Can only use 40 hours per year, no matter how many hours carried over and accrued**
 - **Employer may offer service worker the option of accepting pay out in lieu of carry over as long as voluntary**

USAGE

- **Service worker is entitled to use accrued paid sick leave upon completion of 680 hours of employment from the date of hire**
 - **Unless the employer agrees to an earlier date**
 - **Hours actually worked**
 - **not sick, vacation or other leave**
 - **One time requirement**

- **Once 680 hours worked, can only use accrued time if worked an AVERAGE of 10 hours per week in most recent completed quarter**

BREAK IN SERVICE

- ❑ **Any termination of a service worker's employment by an employer, whether voluntary or involuntary, shall be construed as a break in service.**
- ❑ **If service worker is subsequently rehired by the employer following a break in service, the service worker shall**
 - **(1) begin to accrue sick leave, and**
 - **(2) not be entitled to any unused hours of paid sick leave accrued prior to the break in service - unless agreed to by the employer**

BREAK IN SERVICE

- ❑ Break in service – separation from employment
- ❑ If the service worker returns to work s/he:
 - loses all paid sick leave accrued prior to the break
 - retains the hours worked towards the 680 hours
 - Example
 - ❑ Service worker worked for 7 months prior to a break in service
 - ❑ Service worker accrued 12 hours of paid sick leave and worked for the employer for 500 hours.
 - ❑ Service worker returns to work after the break in service with no accrued paid sick leave and 500 hours of work towards the 680 hour requirement
- ❑ Must look back at most recent completed quarter – must have worked an average of 10 hours per week

COMPLIANCE

- **Employer is in compliance with the law if the employer offers any other paid leave, or combination of other paid leave, that:**
 - **(1) may be used for the for the reasons defined in the law, (*i.e.*, sick service worker, spouse or child, or family violence / sexual assault), and**
 - **(2) is accrued in total at a rate equal to or greater than the rate of 1 hour per every 40 hours worked, for a total of 40 hours per year**
 - **“Other paid leave” - may include, but not be limited to, paid vacation, personal days or paid time off**

PAY RATE

- **Employer must pay service worker for paid sick leave at a pay rate equal to the greater of either:**
 - (1) the normal hourly wage for that service worker, or
 - (2) the minimum fair wage rate under CGS § 31-58 in effect for the pay period during which the employee used paid sick leave.

- For any service worker whose hourly wage varies depending on the work performed by the service worker, the "normal hourly wage" is the average hourly wage of the service worker in the pay period prior to the one in which the service worker used paid sick leave.

PAY RATE

- ❑ **Service workers who earn tip credit – because hourly rate is lower than minimum wage, would be paid minimum wage for any paid sick leave hours used**
- ❑ **Overtime and commissions not part of “normal hourly wage”**
- ❑ **If hourly wage varies – average of pay period prior**

SHIFT CHANGE

- **If agreed to by the service worker and employer, service worker can choose to work additional hours or shifts during the same or following pay period to make up the missed time**
 - **Cannot charge the service worker paid sick leave**
 - **Employer cannot require service worker to pick up extra shift to cover missed work**

REASONS FOR LEAVE

- **An employer shall permit a service worker to use paid sick leave for:**
 - **(1) illness, injury or health condition of a service worker or service worker's child or spouse**
 - **(2) the medical diagnosis, care or treatment of mental illness or physical illness, injury or health condition of a service worker or service worker's child or spouse, or**
 - **(3) preventative medical care for a service worker or service worker's child or spouse**

DEFINITIONS

- **"Child"** - means a biological, adopted or foster child, stepchild, legal ward of a service worker, or a child of a service worker standing in loco parentis, who is
 - (A) under eighteen years of age; or
 - (B) eighteen years of age or older and incapable of self-care because of a mental or physical disability
 - **Same definition as FMLA**

- **"Spouse"** - means a husband or wife

REASONS FOR LEAVE

- **Where a service worker is a victim of family violence or sexual assault**
 - (1) for medical care or psychological or other counseling for physical or psychological injury or disability,
 - (2) to obtain services from a victim services organization,
 - (3) to relocate due to such family violence or sexual assault, or
 - (4) to participate in any civil or criminal proceedings related to or resulting from such family violence or sexual assault.

FAMILY VIOLENCE / ASSAULT

- ❑ Only applies to the service worker and not a child or spouse

- ❑ Similar to CGS § 31-51ss
 - 12 days of unpaid leave for the same reasons covered under the Paid Sick Leave law
 - BUT, the 12 days are **in addition to** the Paid Sick Leave

EMPLOYEE NOTICE

- If a service worker's need to use paid sick leave is foreseeable, an employer may require advance notice.
 - Not more than 7 days

- If a service worker's need for such leave is not foreseeable, an employer may require a service worker to give notice as soon as practicable.

DOCUMENTATION

- For paid sick leave of 3 or more consecutive work days, an employer may require reasonable documentation to support the need for leave
 - If leave is medical - from a health care provider
 - If leave is family violence/sexual assault – from volunteer working for a victim services organization, an attorney, a police officer or other counselor, or a court record

DOCUMENTATION

- ❑ **May only request reasonable documentation for 3 or more consecutive work day absences**
 - **Does not need to be full days**
 - **A scheduled work week of Monday, Wednesday, Friday constitutes 3 or more consecutive days**
 - **Documentation must indicate the need for the number of days of such leave**
- ❑ **There is no provision for clarification of the health care provider's note or for a second opinion**

CBA

- **Nothing in the law shall:**
 - **(1) diminish any rights provided to any employee or service worker under CBA, or**
 - **(2) preempt or override the terms of any CBA effective prior to January 1, 2012**
 - **CBA shall remain in effect until the next negotiated CBA even if it does not provide for sick leave**

MISCELLANEOUS

- **Law does not protect service worker if:**
 - **service worker uses paid sick leave for purposes other than those described in the law**

- **Employer who provides more paid sick leave than is required:**
 - **not prohibited from limiting the amount of additional leave used for other purposes**

MISCELLANEOUS - PAY OUT

- **No service worker shall be entitled to payment of unused accrued sick leave upon termination of employment**
 - **Unless an employer policy or CBA provides for the payment of accrued fringe benefits upon termination**
 - **DOL will look to the employer's policy**

MISCELLANEOUS - DONATION

- **An employer may voluntarily establish a paid sick leave donation policy**
 - **Any service worker donating paid sick leave no longer has that donated paid sick leave available for his or her own use**

RETALIATION

- **No employer shall take retaliatory personnel action or discriminate against an employee because the employee**
 - **(1) requests or uses paid sick leave either in accordance with the law or the employer's own paid sick leave policy, OR**
 - **(2) files a complaint with DOL alleging a violation of the law**

RETALIATION

- **"Retaliatory personnel action" - means any termination, suspension, constructive discharge, demotion, unfavorable reassignment, refusal to promote, disciplinary action or other adverse employment action taken by an employer against an employee or a service worker**

RETALIATION AGAINST SERVICE WORKER

- **No employer shall retaliate or discriminate against a service worker because that service worker**
 - **requests or uses paid sick leave in accordance with the law**

RETALIATION AGAINST EMPLOYEE

- **No employer shall retaliate or discriminate against an employee because the employee**
 - **requests or uses paid sick leave in accordance with the employer's own paid sick leave policy**
 - **ANY EMPLOYEE (not just service workers)**
 - **DOL will enforce whatever is in the employer's policy**

RETALIATION FOR FILING A COMPLAINT

- **No employer shall retaliate or discriminate against an employee because the employee**
 - **files a complaint with DOL alleging violation of this law**
 - **Taking an adverse personnel action against an employee because the employee has filed a complaint with DOL may constitute retaliation for exercising his or her rights under this law**

COMPLAINT PROCESS

- **If an employee believes that the employer has violated this law, he/she may file a complaint with DOL.**
 - **DOL may hold a hearing**
 - **If, after the hearing, the employer is found to have retaliated against the employee, then the employer shall be liable for a civil penalty of \$500 for each violation**
 - **If, after the hearing, the employer is found to have violated CGS §§ 31-57s – 31-57u (accruals, usage, etc.) and/or CGS § 31-57w (notice) shall be liable for a civil penalty of up to \$100 for each violation**

COMPLAINT PROCESS

- **After a hearing, the Labor Commissioner may award the employee all appropriate relief, including**
 - **the payment for used paid sick leave,**
 - **rehiring or reinstatement to the employee's previous job,**
 - **payment of back wages and reestablishment of employee benefits to which the employee otherwise would have been eligible if the employee had not been subject to such retaliatory personnel action or discriminated against.**

- **Any party aggrieved by the decision of the commissioner may appeal the decision to the Superior Court.**

NOTICE TO EMPLOYEES

- **At the time of hiring, the employer must provide notice to each service worker**
 - **(1) of the entitlement to sick leave for service workers, the amount of sick leave provided to service workers and the terms under which sick leave may be used,**
 - **(2) that retaliation by the employer against the service worker for requesting or using sick leave for which the service worker is eligible is prohibited, and**
 - **(3) that the service worker has a right to file a complaint with the DOL for any violation of this law.**

NOTICE - POSTER

- Employers may comply with the notice requirement by displaying a poster
 - in a conspicuous place
 - accessible to service workers
 - at the employer's place of business
 - in both English and Spanish
 - **DOL has the posters available on its website**

CONTACT INFORMATION

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