

SB 5233 - S AMD 141
By Senator Keiser

PULLED 03/05/2019

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that Initiative
4 1433 is a good law approved by the voters to establish sick leave
5 benefits for workers. The law creates necessary worker protections
6 while simultaneously reducing the spread of communicable sickness and
7 disease and addressing other public health and safety concerns.

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

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

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

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

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

30 (d) Beginning January 1, 2020, and until January 1, 2021, every
31 employer shall pay to each of his or her employees who has reached

1 the age of eighteen years wages at a rate of not less than thirteen
2 dollars and fifty cents per hour.

3 (2) (a) Beginning on January 1, 2021, and each following January
4 1st as set forth under (b) of this subsection, every employer shall
5 pay to each of his or her employees who has reached the age of
6 eighteen years wages at a rate of not less than the amount
7 established under (b) of this subsection.

8 (b) On September 30, 2020, and on each following September 30th,
9 the department of labor and industries shall calculate an adjusted
10 minimum wage rate to maintain employee purchasing power by increasing
11 the current year's minimum wage rate by the rate of inflation. The
12 adjusted minimum wage rate shall be calculated to the nearest cent
13 using the consumer price index for urban wage earners and clerical
14 workers, CPI-W, or a successor index, for the twelve months prior to
15 each September 1st as calculated by the United States department of
16 labor. Each adjusted minimum wage rate calculated under this
17 subsection (2) (b) takes effect on the following January 1st.

18 (3) An employer must pay to its employees: (a) All tips and
19 gratuities; and (b) all service charges as defined under RCW
20 49.46.160 except those that, pursuant to RCW 49.46.160, are itemized
21 as not being payable to the employee or employees servicing the
22 customer. Tips and service charges paid to an employee are in
23 addition to, and may not count towards, the employee's hourly minimum
24 wage.

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

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

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

32 (1) Beginning January 1, 2018, except as provided by section 4 of
33 this act, every employer shall provide each of its employees paid
34 sick leave as follows:

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

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

3 (i) An absence resulting from an employee's mental or physical
4 illness, injury, or health condition; to accommodate the employee's
5 need for medical diagnosis, care, or treatment of a mental or
6 physical illness, injury, or health condition; or an employee's need
7 for preventive medical care;

8 (ii) To allow the employee to provide care for a family member
9 with a mental or physical illness, injury, or health condition; care
10 of a family member who needs medical diagnosis, care, or treatment of
11 a mental or physical illness, injury, or health condition; or care
12 for a family member who needs preventive medical care; and

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

17 (c) An employee is authorized to use paid sick leave for absences
18 that qualify for leave under the domestic violence leave act, chapter
19 49.76 RCW.

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

23 (e) Employers are not prevented from providing more generous paid
24 sick leave policies or permitting use of paid sick leave for
25 additional purposes.

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

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

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

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

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

9 (k) This section does not require an employer to provide
10 financial or other reimbursement for accrued and unused paid sick
11 leave to any employee upon the employee's termination, resignation,
12 retirement, or other separation from employment. When there is a
13 separation from employment and the employee is rehired within twelve
14 months of separation by the same employer, whether at the same or a
15 different business location of the employer, previously accrued
16 unused paid sick leave shall be reinstated and the previous period of
17 employment shall be counted for purposes of determining the
18 employee's eligibility to use paid sick leave under subsection (1)(d)
19 of this section.

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

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

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

30 (c) A spouse;

31 (d) A registered domestic partner;

32 (e) A grandparent;

33 (f) A grandchild; or

34 (g) A sibling.

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

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

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

3 The sick leave provisions of RCW 49.46.200 through 49.46.830
4 shall not apply to workers covered by a collective bargaining
5 agreement, provided:

6 (1) The union signatory to the collective bargaining agreement is
7 an approved referral union program authorized under RCW 50.20.010 and
8 in compliance with WAC 192-210-110; and

9 (2) The collective bargaining agreement establishes provisions
10 for sick leave or its equivalent; and

11 (3) The requirements of RCW 49.46.200 through 49.46.830 are
12 expressly waived in the collective bargaining agreement in clear and
13 unambiguous terms or in an addendum to an existing agreement
14 including an agreement that is open for negotiation provided the sick
15 leave portions were previously ratified by the membership."

SB 5233 - S AMD 141
By Senator Keiser

PULLED 03/05/2019

16 On page 1, line 2 of the title, after "agreements;" strike the
17 remainder of the title and insert "amending RCW 49.46.020 and
18 49.46.210; adding a new section to chapter 49.46 RCW; and creating a
19 new section."

EFFECT: Removes the requirement that the sick leave provided in a collective bargaining agreement meet or exceed the benefits provided under current law and rules adopted by the department of labor and industries. Removes the requirement that the signatory union to the collective bargaining agreement submit a copy of the agreement to the department of labor and industries. Adds additional sections to conform current statute to the changes made in the bill. Provides that current sick leave laws do not apply to a collective bargaining agreement, rather than a bona fide collective bargaining agreement, that meets the requirements of the bill.

--- END ---