
**Labor & Workplace Standards
Committee**

SB 5979

Brief Description: Concerning accrued leave for construction workers.

Sponsors: Senators Keiser, Conway, Saldaña, Randall, Kuderer, Liias, Kauffman, Van De Wege, Hasegawa, Nobles, Valdez and Wilson, C..

Brief Summary of Bill

- Limits the requirement for a construction industry employer to pay a separating worker for accrued and unused sick leave to when the worker performed service, maintenance, or construction work on a jobsite, in the field, or in a fabrication shop using the tools of the worker's trade or craft.

Hearing Date: 2/20/24

Staff: Kelly Leonard (786-7147).

Background:

Washington's Paid Sick Leave Law, enacted by Initiative No. 1433 in 2016, requires employers to provide paid sick leave to employees. Employees must accrue at least one hour of paid sick leave for every 40 hours worked. Paid sick leave must be paid at the employee's normal hourly rate of compensation. An employee may use accrued paid sick leave beginning on the ninetieth calendar day after the commencement of his or her employment. If an employee does not use all of his or her available paid sick leave by the end of the accrual year, the employer must carry over balances of 40 hours or less to the next year.

An employer is generally not required to pay the employee for any unused accrued paid sick

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leave upon the employee's termination, resignation, retirement, or other separation from employment. However, Engrossed Substitute Senate Bill 5111, which passed in 2023, established certain requirements for payment of unused sick leave to workers in the construction industry. Specifically, workers covered under the North American Industry Classification System code for construction, except for residential building construction, who have not met the 90-day eligibility requirement at the time of separation, must be paid the balance of their accrued and unused sick leave in the applicable final pay period.

The Sick Leave Law does not cover construction workers covered by a collective bargaining agreement (CBA) if: (1) the union signatory to the CBA is an approved referral union program; (2) the CBA establishes equivalent sick leave provisions; and (3) the sick leave requirements have been expressly waived in the CBA. Equivalent sick leave provisions provided by a CBA must meet the requirements of the sick leave law, including the requirement to pay construction workers for unused sick leave.

Summary of Bill:

A definition of "construction worker" is added for purposes of determining the applicability of the requirement to pay a construction worker his or her accrued and unused sick leave if the worker has not met the 90-day eligibility threshold. "Construction worker" means a worker who performed service, maintenance, or construction work on a jobsite, in the field, or in a fabrication shop using the tools of the worker's trade or craft. This effectively excludes employees of a construction industry employer who are not performing construction work from being eligible to receive payment for their accrued and unused sick leave.

Other provisions are reorganized. The reference to the North American Industry Classification System code for residential construction is corrected.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.