

Senate Bill 454-A39 Overview

PREEMPTION

--Local governments preempted from implementing their own sick-leave ordinances. *Section 15*

EMPLOYER SIZE

--Paid leave at normal rate of pay for employers with 10 or more employees. Protected unpaid leave for employers with fewer than 10 employees. *Section 3(1)(a) and 3(1)(b)*

--Businesses located in cities with a population over 500,000 (i.e., Portland) have a threshold of 6 employees. *Section 3(13)*

--Calculation is based on average payroll during the previous year, which provides employers with stability and predictability. Employers that had an average of 6/10 or more employees for 20 weeks of that year meet the threshold. (20 weeks is the OFLA standard.) *Section 3(2)(a) and (b)*

ANNUAL BENEFIT

--Maximum 40 hours can be used in a year. *Section 3(3)(b)*.

MAXIMUM CARRYOVER TO NEXT YEAR

--40 hours can be carried over from previous year. Employee can accumulate up to 80 hours, but only 40 hours can be used each year. *Section 3(3), 3(3)(a) and 3(3)(b)*

ACCRUAL RATE

--At least 1 hour leave for every 30 hours worked or 1 and one-third hours for every 40 hours worked. *Section 3(1)(a) and 3(1)(b)*

--Employers that offer 40 hours of sick leave at the beginning of each year (i.e., “front-load”) have met the standard and need not track accrual. *Section 3(1)(c) and (d), and Section 2(5)(a) and (b)*

RECORD KEEPING

--No specific requirement to keep records, but employer must notify employees of accrued and available leave at least on a quarterly basis or as part of their regular pay stubs. *Section 9(1)(a)*

SHIFT TRADING

--Allowable if voluntary by both employees and agreed to by employer. Trade doesn't need to happen during the same pay period. *Section 3(9)*

MINIMUM LEAVE INCREMENT

--1 hour *Section 7(1)(b)*

--Employee will make reasonable attempt to take leave when least disruptive to business. *Section 7(3)(b)*

--Employer can require that leave be taken in 4-hour increments if two conditions are met:

- Employer provides 56 hours of leave per year. *Section (7)(1)(b)(A)*
- If the employer would face undue hardship if employee took leave in smaller increments, based on the difficulty of securing a replacement worker. *Section (7)(1)(b)(B)*.

--BOLI will adopt rules for defining and implementing the 4-hour standard. Employers will be allowed to use a consistent standard for all their employees. *Section (7)(1)(c)*

DEFINITION OF EMPLOYEE

--ORS652 Definition. *Section 2(1)*

--Excludes family members, independent contractors, and interns. *Section 2(1)(c)*

USE OF LEAVE

--For self-care or care of a family member. *Section 6(1-4)*

DEFINITION OF FAMILY MEMBER

--Oregon Family Leave Act (OFLA) Definition. *Section 2(4)*

WAITING PERIOD

--90 days from first day of employment. *Section 3(5)(a)*

BREAK IN SERVICE

--If employee returns to employer within 180 days of separation, accrual resumes. *Section 3(11)(a) and 3(11)(b)*

--During break in service, 90-day waiting-period clock stops, resumes if employee rehired within 180 days. *Section 3(11)(b)*

EXEMPTIONS

--Exempts employees whose terms and conditions of employment are covered by a collective bargaining agreement, AND are employed through a referral hiring hall or similar referral system operated by the union or a third party; AND whose benefits are delivered through a multi-employer trust. *Section 12(1)*

EXISTING POLICIES (e.g., existing PTO)

--Section 4 clarifies that PTO policies that are substantially equivalent to the requirements in the bill and can be used for sick leave purposes have met the standard. *Section 4(1)*

MEDICAL VERIFICATION

- Can be required for absences longer than three consecutive days *Section 8(1)(a)*
- And for suspected pattern of abuse. *Section 8(3)(b)*
- Employer responsibility for employee costs as under OFLA *Section 8(2)*

ENFORCEMENT

- BOLI-enforced and private right of action *Sections 13, 14, and 17*

“GRACE PERIOD”

- Law effective January 1, 2016. *Section 23*
- No penalties (except for retaliation) assessed prior to January 1, 2017. *Section 22*

AGRICULTURAL WORKERS

- For piece-rate workers, compensation is at their “regular” wage (i.e., wage when they do non-piece-rate work, at least minimum wage). *Section 3(5)(c)(B)*

MISCELLANEOUS

- Employers are free to allow employees to donate unused sick leave to other employees in need. *Section 6(5)*
- Funds appropriated to BOLI, DHS and OHA for implementing the Act. *Sections 20, 21, 22*