

ASSEMBLY BILL NO. 394—ASSEMBLYWOMAN
BILBRAY-AXELROD

MARCH 20, 2017

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing the use of sick leave by employees in certain private employment. (BDR 53-637)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to employment; requiring private employers that provide paid sick leave benefits to employees to allow an employee to use such leave for an illness, injury, medical appointment or other authorized medical need of a member of the employee’s immediate family; providing an exception for certain employees and employers; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires a private employer to pay an employee certain minimum
2 compensation and to provide certain benefits, including overtime compensation and
3 meal and rest breaks. (NRS 608.018, 608.019, 608.250) **Section 1** of this bill
4 requires a private employer that provides sick leave benefits to allow an employee
5 to use his or her accrued sick leave for an absence due to an illness, injury, medical
6 appointment or other authorized medical need of a member of the employee’s
7 immediate family. **Section 1** also provides an exception for certain railway and air
8 carriers from such requirements. Additionally, **section 1** also authorizes such an
9 employer to limit the amount of sick leave an employee may use for these purposes.
10 Finally, **section 1** requires the Labor Commissioner to prepare and post a bulletin
11 setting forth these benefits and requires employers that provide sick leave benefits
12 to post the bulletin in the workplace.

13 **Section 2** of this bill requires the Labor Commissioner to enforce the
14 provisions of **section 1**, and **section 3** of this bill makes a violation of the
15 provisions of **section 1** a misdemeanor and authorizes the Labor Commissioner to



16 impose, in addition to any other remedy or penalty, a penalty of up to \$5,000 for
17 each violation. (NRS 608.180, 608.195)

1 WHEREAS, More than 40 million Americans provide unpaid care
2 to someone who is over the age of 18 years and ill or disabled and
3 approximately 4 in 10 caregivers consider their caregiving situation
4 to be highly stressful and report difficulties with managing
5 emotional and physical stress, balancing work and family
6 responsibilities and finding time for themselves; and

7 WHEREAS, In 2013, 348,000 Nevada family caregivers provided
8 more than 324 million hours of unpaid care, estimated at a value of
9 \$4.27 billion; and

10 WHEREAS, According to a 2015 survey of registered voters in
11 Nevada, 58 percent of Nevada's family caregivers have been
12 employed full-time or part-time while providing care; and

13 WHEREAS, After surveying numerous studies, the United States
14 Equal Employment Opportunity Commission determined that
15 flexible workplace policies enhance employee productivity, reduce
16 absenteeism, lower costs, aid in retention and recruitment of the best
17 talent and may positively affect profits; now, therefore,

18
19 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
20 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:
21

22 **Section 1.** Chapter 608 of NRS is hereby amended by adding
23 thereto a new section to read as follows:

24 *1. Except as otherwise provided in subsection 6, if an*
25 *employer provides paid or unpaid sick leave benefits for his or her*
26 *employees, the employer shall allow an employee to use his or her*
27 *accrued sick leave for an absence due to an illness, injury, medical*
28 *appointment or other authorized medical need of a member of the*
29 *employee's immediate family on the same terms and conditions*
30 *that the employee may use sick leave for his or her own illness,*
31 *injury, medical appointment or other authorized medical need.*

32 *2. An employer may limit the amount of sick leave an*
33 *employee may use pursuant to subsection 1 to an amount not less*
34 *than the sick leave benefits that the employee would accrue during*
35 *a 6-month period at the rate at which the employee is entitled to*
36 *accrue sick leave benefits.*

37 *3. The Labor Commissioner shall prepare a bulletin which*
38 *clearly sets forth the benefits created by this section. The Labor*
39 *Commissioner shall post the bulletin on the Internet website*
40 *maintained by the Office of the Labor Commissioner, if any, and*
41 *shall require the bulletin to be posted by an employer that provides*
42 *sick leave benefits in a conspicuous location in each workplace*



1 *maintained by the employer. The bulletin may be included in any*
2 *printed abstract posted by the employer pursuant to NRS 608.013.*

3 4. *The provisions of this section do not:*

4 (a) *Limit or abridge any other rights, remedies or procedures*
5 *available under the law.*

6 (b) *Negate any other rights, remedies or procedures available*
7 *to an aggrieved party.*

8 (c) *Prohibit, preempt or discourage any contract or other*
9 *agreement that provides a more generous sick leave benefit or paid*
10 *time off benefit.*

11 (d) *Extend the maximum period of leave to which an employee*
12 *is entitled pursuant to the Family and Medical Leave Act of 1993,*
13 *29 U.S.C. §§ 2601 et seq.*

14 5. *An employer shall not deny an employee the right to use*
15 *accrued sick leave benefits in accordance with the provisions of*
16 *this section or retaliate against an employee for exercising any*
17 *rights afforded by, or attempts to prosecute a violation of, this*
18 *section.*

19 6. *The provisions of this section do not apply to:*

20 (a) *An employee or employer subject to the provisions of the*
21 *Federal Employers' Liability Act, 45 U.S.C. §§ 51 et seq.;*

22 (b) *An employee or an employer subject to the provisions of*
23 *the Railway Labor Act, 45 U.S.C. §§ 181 et seq.;*

24 (c) *An employee or employer as defined in the Railroad*
25 *Unemployment Insurance Act, 45 U.S.C. §§ 351 et seq.;*

26 (d) *Any other person whose exemption is required to ensure*
27 *compliance with federal law; or*

28 (e) *Any other employee or employer expressly exempted under*
29 *regulations adopted by the Labor Commissioner as necessary to*
30 *carry out the provisions of this section in accordance with*
31 *applicable state and federal law.*

32 7. *Nothing in this section shall be construed to invalidate,*
33 *diminish or otherwise interfere with any collective bargaining*
34 *agreement or with the power of any party to collectively bargain*
35 *such an agreement.*

36 8. *As used in this section:*

37 (a) *"Immediate family" means the child, spouse, domestic*
38 *partner, sibling, parent, mother-in-law, father-in-law, grandchild,*
39 *grandparent or stepparent of an employee.*

40 (b) *"Sick leave benefits" means any paid or unpaid time*
41 *available to an employee as provided through an employment*
42 *benefit plan or policy of paid leave to be used as a result of*
43 *absence from work due to personal illness, injury, medical*
44 *appointment or other authorized medical need. As used in this*
45 *paragraph, "employment benefit plan or policy of paid leave" does*



1 *not include a long-term disability plan, a short-term disability*
2 *plan, an insurance policy or other comparable benefit plan.*

3 **Sec. 2.** NRS 608.180 is hereby amended to read as follows:

4 608.180 The Labor Commissioner or the representative of the
5 Labor Commissioner shall cause the provisions of NRS 608.005 to
6 608.195, inclusive, *and section 1 of this act* to be enforced, and
7 upon notice from the Labor Commissioner or the representative:

8 1. The district attorney of any county in which a violation of
9 those sections has occurred;

10 2. The Deputy Labor Commissioner, as provided in
11 NRS 607.050;

12 3. The Attorney General, as provided in NRS 607.160 or
13 607.220; or

14 4. The special counsel, as provided in NRS 607.065,

15 ↪ shall prosecute the action for enforcement according to law.

16 **Sec. 3.** NRS 608.195 is hereby amended to read as follows:

17 608.195 1. Except as otherwise provided in NRS 608.0165,
18 any person who violates any provision of NRS 608.005 to 608.195,
19 inclusive, *and section 1 of this act*, or any regulation adopted
20 pursuant thereto, is guilty of a misdemeanor.

21 2. In addition to any other remedy or penalty, the Labor
22 Commissioner may impose against the person an administrative
23 penalty of not more than \$5,000 for each such violation.

24 **Sec. 4.** This act becomes effective:

25 1. Upon passage and approval for the purpose of adopting
26 regulations and performing any other preparatory administrative
27 tasks that are necessary to carry out the provisions of this act; and

28 2. On January 1, 2018, for all other purposes.

