

ASSEMBLY, No. 4631

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED SEPTEMBER 22, 2022

Sponsored by:

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

Assemblyman BRIAN BERGEN

District 25 (Morris and Somerset)

Co-Sponsored by:

Assemblymen Webber and Barranco

SYNOPSIS

Provides that earned sick leave law does not apply to certain workers in concrete industry.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/13/2022)

1 AN ACT concerning earned sick leave and amending P.L.2018, c.10.

2

3 **BE IT ENACTED** by the Senate and General Assembly of the State
4 of New Jersey:

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6 1. Section 1 of P.L.2018, c.10 (C.34:11D-1) is amended to read
7 as follows:

8 1. For the purposes of this act:

9 "Benefit year" means the period of 12 consecutive months
10 established by an employer in which an employee shall accrue and
11 use earned sick leave as provided pursuant to section 2 of this act,
12 provided that once the starting date of the benefit year is established
13 by the employer it shall not be changed unless the employer notifies
14 the commissioner of the change in accordance with regulations
15 promulgated pursuant to this act. The commissioner shall impose a
16 benefit year on any employer that the commissioner determines is
17 changing the benefit year at times or in ways that prevent the
18 accrual or use of earned sick leave by an employee.

19 "Certified Domestic Violence Specialist" means a person who
20 has fulfilled the requirements of certification as a Domestic
21 Violence Specialist established by the New Jersey Association of
22 Domestic Violence Professionals.

23 "Child" means a biological, adopted, or foster child, stepchild or
24 legal ward of an employee, child of a domestic partner or civil
25 union partner of the employee.

26 "Civil union" means a civil union as defined in section 2 of
27 P.L.2006, c.103 (C.37:1-29).

28 "Commissioner" means the Commissioner of Labor and
29 Workforce Development.

30 "Department" means the Department of Labor and Workforce
31 Development.

32 "Designated domestic violence agency" means a county-wide
33 organization with a primary purpose to provide services to victims
34 of domestic violence, and which provides services that conform to
35 the core domestic violence services profile as defined by the
36 Division of Child Protection and Permanency in the Department of
37 Children and Families and is under contract with the division for
38 the express purpose of providing the services.

39 "Domestic or sexual violence" means stalking, any sexually
40 violent offense, as defined in section 3 of P.L.1998, c.71 (C.30:4-
41 27.26), or domestic violence as defined in section 3 of P.L.1991,
42 c.261 (C.2C:25-19) and section 1 of P.L.2003, c.41 (C.17:29B-16).

43 "Domestic partner" means a domestic partner as defined in
44 section 3 of P.L.2003, c.246 (C.26:8A-3).

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 "Employee" means an individual engaged in service to an
2 employer in the business of the employer for compensation.
3 "Employee" does not include an employee performing service in the
4 construction industry **【that is under contract pursuant to a】**,
5 including an employer engaged in performing service in the ready-
6 mix concrete industry, that is represented by a union for purposes of
7 collective bargaining **【agreement】**, or a per diem health care
8 employee, or a public employee who is provided with sick leave
9 with full pay pursuant to any other law, rule, or regulation of this
10 State.

11 "Employer" means any person, firm, business, educational
12 institution, nonprofit agency, corporation, limited liability company
13 or other entity that employs employees in the State, including a
14 temporary help service firm. In the case of a temporary help service
15 firm placing an employee with client firms, earned sick leave shall
16 accrue on the basis of the total time worked on assignment with the
17 temporary help service firm, not separately for each client firm to
18 which the employee is assigned. "Employer" does not include a
19 public employer that is required to provide its employees with sick
20 leave with full pay pursuant to any other law, rule or regulation of
21 this State.

22 "Family member" means a child, grandchild, sibling, spouse,
23 domestic partner, civil union partner, parent, or grandparent of an
24 employee, or a spouse, domestic partner, or civil union partner of a
25 parent or grandparent of the employee, or a sibling of a spouse,
26 domestic partner, or civil union partner of the employee, or any
27 other individual related by blood to the employee or whose close
28 association with the employee is the equivalent of a family
29 relationship.

30 "Health care professional" means any person licensed under
31 federal, State, or local law, or the laws of a foreign nation, to
32 provide health care services, or any other person who has been
33 authorized to provide health care by a licensed health care
34 professional, including but not limited to doctors, nurses and
35 emergency room personnel.

36 "Parent" means a biological, adoptive, or foster parent,
37 stepparent, or legal guardian of an employee or of the employee's
38 spouse, domestic partner, or civil union partner, or a person who
39 stood in loco parentis of the employee or the employee's spouse,
40 domestic partner, or civil union partner when the employee, spouse
41 or partner was a minor child.

42 "Per diem health care employee" means any:

43 (1) health care professional licensed in the State of New Jersey
44 employed by a health care facility licensed by the New Jersey
45 Department of Health;

46 (2) any individual that is in the process of applying to the New
47 Jersey Division of Consumer Affairs for a license to provide health

1 care services who is employed by a health care facility licensed by
2 the New Jersey Department of Health; or

3 (3) any first aid, rescue or ambulance squad member employed
4 by a hospital system.

5 An employee listed in paragraphs (1), (2), and (3) of this
6 definition shall be considered a per diem health care employee if
7 that employee:

8 (1) works on an as-needed basis to supplement a health care
9 employee, or to replace or substitute for a temporarily absent health
10 care employee;

11 (2) works only when the employee indicates that the employee
12 is available to work, and has no obligation to work when the
13 employee does not indicate availability; and

14 (3) either:

15 (a) has the opportunity for full time or part time employment in
16 their scope of practice under that healthcare provider which offers
17 paid time off benefits greater in length than provided under this act
18 under the terms of employment; or

19 (b) has waived earned sick leave benefits as provided under this
20 act under terms of employment for alternative benefits or
21 consideration.

22 "Per diem health care employee" shall not include any individual
23 who is certified as a homemaker-home health aide.

24 "Retaliatory personnel action" means denial of any right
25 guaranteed under this act and any threat, discharge, including a
26 constructive discharge, suspension, demotion, unfavorable
27 reassignment, refusal to promote, disciplinary action, sanction,
28 reduction of work hours, reporting or threatening to report the
29 actual or suspected immigrant status of an employee or the
30 employee's family, or any other adverse action against an employee.

31 "Sibling" means a biological, foster, or adopted sibling of an
32 employee.

33 "Spouse" means a husband or wife.

34 (cf: P.L.2018, c.10, s.1)

35

36 2. This act shall take effect immediately.

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STATEMENT

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41 This bill clarifies that the exclusion from the earned sick leave
42 law of certain construction workers subject to collective bargaining
43 agreements includes any employee of an employer engaged in
44 performing service in the ready-mix concrete industry, that is
45 represented by a union for purposes of collective bargaining.