

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2015 Legislative Session

Bill No. CB-65-2015

Chapter No. _____

Proposed and Presented by Council Members Lehman, Taveras, and Toles

Introduced by _____

Co-Sponsors _____

Date of Introduction _____

BILL

1 AN ACT concerning

2 Earned Sick and Safe Leave

3 For the purpose of requiring certain employers in the County to provide earned sick and safe
4 leave to certain employees working in the County; provide enforcement by the Human Relations
5 Commission; and generally regulating the sick and safe leave benefits provided to an employee
6 working in the County for certain employers.

7 BY adding:

8 SUBTITLE 13A. LABOR CODE.

9 Sections 13A-118, 13A-119, 13A-120, 13A-121, 13A-
10 122, 13A-123, 13A-124 and 13A-125,

11 The Prince George's County Code

12 (2011 Edition; 2014 Supplement).

13 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
14 Maryland, that Sections 13A-118, 13A-119, 13A-120, 13A-121, 13A-122, 13A-123, 13A-124
15 and 13A-125 of the Prince George's County Code be and the same are hereby added:

16 **SUBTITLE 13A. LABOR CODE.**

17 **DIVISION 3. EARNED SICK AND SAFE LEAVE.**

18 **Sec. 13A-118. Legislative findings and declaration of purpose.**

19 The County Council for Prince George's County, Maryland, hereby finds that many persons
20 employed in the County do not receive earned sick and safe leave. The absence of earned sick
21 and safe leave often results in the unnecessary spread of disease in the County when an employee

1 without earned sick and safe leave is forced to work while ill or a parent without earned sick and
 2 safe leave is forced to send a sick child to day care or school. Minimum standards for earned
 3 sick and safe leave in the County are necessary to promote the health and welfare of County
 4 residents; safeguard employers and employees against unfair competition; increase the stability
 5 of industry in the County; decrease the need for the County to spend public money for the relief
 6 of employees who also live in the County; and that in order to effectively respond, the County
 7 Council for Prince George's County, Maryland hereby declares that it is the public policy of
 8 Prince George's County to reduce the number of employees who are forced to come to work
 9 when ill or send sick children to school or day care because they have no paid sick leave.

10 **Sec. 13A-119. Definitions.**

11 (a) For purposes of this Division, the following words and phrases shall have the following
 12 meanings indicated:

13 (1) **Abuse** shall have the meaning defined in the Annotated Code of Maryland,
 14 Family Law Article, Section 4-501.

15 (2) **Director** shall mean the Executive Director of the Human Relations Commission.

16 (3) **Domestic violence** shall mean abuse against a person eligible for relief.

17 (4) **Earned sick and safe leave** shall mean paid leave away from work that is provided
 18 by an employer under Section 13A-120 and may be used for the purposes described in Section
 19 13A-122. Earned sick and safe leave includes paid time off that can be used by the employee for
 20 any purpose.

21 (5) **Employ** shall mean to engage a person to work for compensation.

22 (6) **Employee** shall mean any person permitted or instructed to work or be present by
 23 an employer in the County. Employee does not include an individual who:

24 (A) **does not have a regular work schedule with the employer;**

25 (B) **contacts the employer for work assignments and is scheduled to work the**
 26 **assignments within forty-eight (48) hours after contacting the employer;**

27 (C) **has no obligation to work for the employer if the individual does not contact**
 28 **the employer for work assignments; and**

29 (D) **is not employed by a temporary placement agency.**

30 (7) **Employer** shall mean any person, individual, proprietorship, partnership, joint
 31 venture, corporation, limited liability company, trust, association, or other entity operating and

1 doing business in the County that employs one (1) or more persons in the County in addition to
 2 the owners. Employer includes the County government, but does not include the United States,
 3 any State, or any other local government.

4 (8) Family member shall mean:

5 (A) a biological child, adopted child, foster child, or stepchild of the employee;

6 (B) a child for whom the employee has legal or physical custody or
 7 guardianship;

8 (C) a child for whom the employee is the primary caregiver;

9 (D) a biological parent, adoptive parent, foster parent, or stepparent of the
 10 employee or the employee's spouse;

11 (E) the legal guardian of the employee;

12 (F) an individual who served as the primary caregiver of the employee when the
 13 employee was a minor;

14 (G) the spouse of the employee;

15 (H) a grandparent of the employee;

16 (I) the spouse of a grandparent of the employee;

17 (J) a grandchild of the employee;

18 (K) a biological, adopted, or foster sibling of the employee; or

19 (L) the spouse of a biological, adopted, or foster sibling of the employee.

20 (9) Health care provider shall mean an individual licensed under State law to provide
 21 medical services.

22 (10) Person eligible for relief shall have the meaning defined in the Annotated Code of
 23 Maryland, Family Law Article, Section 4-501.

24 (11) Sexual assault shall mean:

25 (A) rape, sexual offense, or any other act that is a sexual crime pursuant to the
 26 Annotated Code of Maryland, Criminal Law Article, Title 3, Subtitle 3;

27 (B) child sexual abuse pursuant to the Annotated Code of Maryland, Criminal
 28 Law Article, Section 3-602; or

29 (C) sexual abuse of a vulnerable adult pursuant to the Annotated Code of
 30 Maryland, Criminal Law Article, Section 3-604.

31 (12) Stalking shall have the meaning defined in the Annotated Code of Maryland,

1 Criminal Law Article, Section 3-802.

2 (13) Tipped employee shall mean an employee who:

3 (A) is engaged in an occupation in which the employee customarily and
 4 regularly receives more than Thirty Dollars (\$30) each month in tips;

5 (B) has been informed by the employer about the provisions of this Section; and

6 (C) has kept all of the tips that the employee received.

7 **Sec. 13A-120. Earned sick and safe leave required.**

8 (a) Earned sick and safe leave. An employer shall provide each employee earned sick and
 9 safe leave for work performed in the County paid at the same rate and with the same benefits as
 10 the employee normally earns. A tipped employee shall be paid at least the County minimum
 11 wage required under Section 13A-117 for each hour the employee uses earned sick and safe
 12 leave.

13 (b) Rate of accrual. The earned sick and safe leave provided under Subsection (a) shall
 14 accrue at a rate of at least one (1) hour for every thirty (30) hours an employee works in the
 15 County, except an employer shall not be required to allow an employee to:

16 (1) earn more than fifty-six (56) hours of earned sick and safe leave in a calendar
 17 year; or

18 (2) use more than eighty (80) hours of earned sick and safe leave in a calendar year.

19 (c) Retaliation prohibited. A person shall not:

20 (1) retaliate against any person for:

21 (A) lawfully opposing any violation of this Division; or

22 (B) filing a complaint, testifying, assisting, or participating in any manner in an
 23 investigation, proceeding, or hearing under this Division; or

24 (2) obstruct or prevent enforcement or compliance with this Division.

25 **Sec. 13A-121. Minimum earned sick and safe leave standards.**

26 (a) An employer may award earned sick and safe leave as the leave accrues during the
 27 calendar year or may award the full amount that an employee would earn over the entire calendar
 28 year at the beginning of a calendar year.

29 (b) To calculate the rate of accrual of earned sick and safe leave for an employee who is
 30 exempt from the overtime provisions of the Federal Fair Labor Standards Act, the employer shall
 31 assume the employee worked the number of hours worked in a normal workweek up to forty (40)

1 hours each workweek.

2 (c) An employer shall permit an employee to carry the balance of any unused earned sick
 3 and safe leave over to the next calendar year, but an employer shall not be required to permit an
 4 employee to carry over more than fifty-six (56) hours of unused earned sick and safe leave.

5 (d) If an employee begins working outside the County for the same employer, the
 6 employer shall permit the employee to use the earned sick and safe leave that accrued while
 7 working for the employer in the County.

8 (e) If an employee is rehired by an employer to work in the County within twelve (12)
 9 months after leaving the employment, the employer shall reinstate any unused earned sick and
 10 safe leave that the employee had when the employee left the employment.

11 (f) An employer may permit an employee to use earned sick and safe leave before the
 12 amount needed by the employee accrues.

13 **Sec. 13A-122. Use of earned sick and safe leave.**

14 (a) An employee may use earned sick and safe leave:

15 (1) to care for or treat the employee's mental or physical illness, injury, or condition;

16 (2) to obtain preventive medical care for the employee or the employee's family

17 member;

18 (3) to care for a family member with a mental or physical illness, injury, or condition;

19 (4) if the employer's place of business has closed by order of a public official due to a

20 public health emergency;

21 (5) if the school or child care center for the employee's family member is closed by
 22 order of a public official due to a public health emergency;

23 (6) to care for a family member if a health official or health care provider has
 24 determined that the family member's presence in the community would jeopardize the health of
 25 others because of the family member's exposure to a communicable disease; or

26 (7) if the absence from work is due to domestic violence, sexual assault, or stalking
 27 committed against the employee or the employee's family member and the leave is used:

28 (A) by the employee to obtain for the employee or the employee's family:

29 (i) medical attention needed to recover from a physical or psychological
 30 injury due to domestic violence, sexual assault, or stalking;

31 (ii) services from a victim services organization related to the domestic

1 violence, sexual assault, or stalking; or

2 (iii) legal services, including preparing for or participating in a civil or
 3 criminal proceeding related to the domestic violence, sexual assault, or stalking; or

4 (B) during the time that the employee has temporarily relocated due to the
 5 domestic violence, sexual assault, or stalking.

6 (b) To use earned sick and safe leave, an employee shall:

7 (1) request leave from the employer as soon as practicable after the employee
 8 determines that the employee needs to take leave;

9 (2) notify the employer of the anticipated duration of the leave; and

10 (3) comply with any reasonable procedures established by the employer when
 11 requesting and taking leave.

12 (c) An employer shall not require an employee who requests earned sick and safe leave to
 13 search for or find an individual to take the employee's place while the employee takes leave.

14 (d) An employer shall not require an employee to:

15 (1) disclose details of the mental or physical illness, injury, or condition of the
 16 employee or the employee's family member; or

17 (2) provide as certification any information that would violate the Federal Social
 18 Security Act or the Federal Health Insurance Portability and Accountability Act.

19 (e) By mutual consent of the employee and the employer, the employee may work
 20 additional hours or trade shifts with another employee during a pay period to make up the
 21 amount of work hours that the employee missed for which the employee could have used earned
 22 sick and safe leave.

23 (f) An employee may take earned sick and safe leave in the smallest increment that the
 24 employer's payroll system uses to account for absences or work time, except that an employee
 25 shall not be required to take earned sick and safe leave in an increment of more than one (1)
 26 hour.

27 (g) An employer shall provide an employee with a written statement of available earned
 28 sick and safe leave each time the employer pays wages to the employee.

29 (h) An employer may require an employee who uses more than three (3) consecutive days
 30 of earned sick and safe leave to provide reasonable documentation to verify that the leave was
 31 used appropriately.

Sec. 13A-123. Notice.

(a) An employer shall notify the employees that they are entitled to earned sick and safe leave under this Division.

(b) The notice shall include:

(1) a statement of how earned sick and safe leave is accrued;

(2) the permitted uses of earned sick and safe leave;

(3) a statement that the employer shall not retaliate against an employee for exercising the rights granted by this Division; and

(4) information about the employee's right to file a complaint with the Director for a violation of any rights granted by this Division.

(c) The Director shall create and publish a model notice in English, Spanish, and any other language that the Director finds is necessary that may be used by an employer to comply with Subsection (b).

(d) An employer may provide notice by:

(1) displaying the model notice or another notice containing the same information in a conspicuous and accessible area at each of the employer's work locations in the County;

(2) including the model notice or another notice containing the same information in an employee handbook or other written guidance distributed to all employees; or

(3) distributing the model notice or another notice containing the same information to each employee when the employee is hired.

Sec. 13A-124. Records.

(a) An employer shall keep, for at least three (3) years, a record of:

(1) earned sick and safe leave accrued by each employee; and

(2) earned sick and safe leave used by each employee.

(b) After giving the employer notice and determining a mutually agreeable time for the inspection, the Director may inspect a record kept under Subsection (a) for the purposes of determining whether the employer is complying with this Division.

Sec. 13A-125. Enforcement.

(a) The Director shall administer and enforce this Division.

(b) A covered employee who did not receive earned sick and safe leave in violation of this Division may file a complaint with the Director pursuant to Title 2, Division 12 of the County

1 Code.

2 SECTION 2. BE IT FURTHER ENACTED that the provisions of this Act are hereby
3 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
4 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of
5 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining
6 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this
7 Act, since the same would have been enacted without the incorporation in this Act of any such
8 invalid or unconstitutional word, phrase, clause, sentence, paragraph, subparagraph, subsection,
9 or section.

10 SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect on July 1, 2016.

Adopted this ____ day of _____, 2015.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Mel Franklin
Chairman

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Rushern L. Baker, III
County Executive

KEY:

Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.
Asterisks *** indicate intervening existing Code provisions that remain unchanged.