

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out the title and substituting the following:

'An Act Authorizing Earned Employee Leave'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 26 MRSA §42-B, sub-§1, ¶¶E and F, as enacted by PL 2017, c. 219, §2, are amended to read:

E. Video display terminal safety as described in section 252, subsection 1; and

F. Minimum wage and overtime provisions as described in section 664-; and

Sec. 2. 26 MRSA §42-B, sub-§1, ¶G is enacted to read:

G. Earned paid leave.

Sec. 3. 26 MRSA §637 is enacted to read:

§ 637. Earned paid leave

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Employment" has the same meaning as in section 1043, subsection 11, but does not include employment in a seasonal industry as defined in section 1251.

B. "Employer" has the same meaning as in section 1043, subsection 9.

C. "Employee" means a person engaged in employment.

2. Earned paid leave. An employer that employs more than 10 employees in the usual and regular course of business for more than 120 days in any calendar year shall permit each employee to earn paid leave based on the employee's base pay as provided in this section.

3. Accrual. An employee is entitled to earn one hour of paid leave from a single employer for every 40 hours worked, up to 40 hours in one year of employment. Accrual of leave begins at the start of employment, but the employer is not required to permit use of the leave before the employee has been employed by that employer for 120 days during a one-year period.

4. Rate. An employee while taking earned leave must be paid at least the same base rate of pay that the employee received immediately prior to taking earned leave and must receive the same benefits as those provided under established policies of the employer pertaining to other types of paid leave.

5. Notice. Absent an emergency, illness or other sudden necessity for taking earned leave, an employee shall give reasonable notice to the employee's supervisor of the employee's intent to use earned leave. Use of leave must be scheduled to prevent undue hardship on the employer as reasonably determined by the employer.

6. Benefits. The taking of earned leave under this section may not result in the loss of any employee benefits accrued before the date on which the leave commenced and may not affect the employee's right to health insurance benefits on the same terms and conditions as applicable to similarly situated employees. Nothing in this section prevents an employer from providing a benefit greater than that provided by this section.

7. Enforcement. The bureau has the exclusive authority pursuant to section 42 to enforce this section.

8. Penalties. Penalties for violations of this section are the same as those provided in section 53.

9. Preemption. A municipality or other political subdivision may not enact an ordinance or other rule purporting to have the force of law under its home rule or other authority regulating earned paid leave.

10. Rules. The Department of Labor shall adopt rules to implement and enforce the provisions of this section, including rules regarding the receipt, investigation and prosecution of complaints brought under this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

11. Exception. This section does not apply to an employee covered by a collective bargaining agreement during the period between January 1, 2021 and the expiration of the agreement.

12. Reporting. Beginning January 1, 2022, and annually thereafter, the Department of Labor shall submit a report to the joint standing committee of the Legislature having jurisdiction over labor matters on progress made in the State to comply with this section.

Sec. 4. Effective date. This Act takes effect January 1, 2021.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment, which is the majority report of the Joint Standing Committee on Labor and Housing, replaces the title and the bill. This amendment does the following:

1. It requires an employer, except in a seasonal industry, that employs more than 10 employees for more than 120 days in any calendar year to permit each employee to earn paid leave based on the employee's base pay;

2. It specifies that an employee is entitled to earn one hour of paid leave from a single employer for every 40 hours worked, up to 40 hours in one year of employment, with accrual of leave beginning at the start of employment;
3. It requires an employee to work for 120 days before an employer is required to permit use of accrued earned paid leave;
4. It requires an employer to pay an employee taking earned leave at least the same base rate of pay that employee received immediately prior to taking earned leave and provide the same benefits as those provided under established policies of the employer pertaining to other types of paid leave;
5. It requires an employee, absent an emergency, illness or other sudden necessity for taking earned leave, to give reasonable notice to the employee's supervisor of the employee's intent to use leave;
6. It specifies that an employee taking earned leave maintains any employee benefits accrued before the date on which the leave commenced and the leave may not affect the employee's right to health insurance benefits on the same terms and conditions as applicable to similarly situated employees;
7. It provides the Department of Labor, Bureau of Labor Standards the exclusive authority to enforce the law and requires the Department of Labor to adopt routine technical rules to implement and enforce the law;
8. It allows for the imposition of penalties currently established in the Maine Revised Statutes, Title 26, section 53;
9. It preempts the authority of a municipality or other political subdivision to enact any ordinance or other rule purporting to have the force of law under its home rule or other authority regulating earned paid leave;
10. It requires the Department of Labor to adopt routine technical rules to implement and enforce provisions regarding earned paid leave;
11. It specifies that earned paid leave does not apply to an employee covered by a collective bargaining agreement during the period between January 1, 2021 and the expiration of the collective bargaining agreement; and
12. It requires the Department of Labor, beginning January 1, 2022 and annually thereafter, to report progress to the joint standing committee of the Legislature having jurisdiction over labor matters.