
A BILL FOR AN ACT

RELATING TO PANDEMIC LEAVE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that while the department
2 of health has provided certain recommendations regarding COVID-
3 19 exposure and quarantine, there are no guidelines for
4 employers as to how an employee's wages, benefits, and leave are
5 handled. This has created an issue for individuals who are
6 fully vaccinated, have been exposed to COVID-19, but tested
7 negative, and wish to return to work but cannot due to their
8 employer's insistence that they remain in quarantine. The
9 legislature further finds that it has become necessary to
10 prohibit certain unfair practices with employee leave due to
11 possible COVID-19 exposure. While there is no inherently unfair
12 issue with an employer requiring an employee to remain in
13 quarantine, an employee who is fully vaccinated, not sick, and
14 tests negative should not be penalized by being forced to use
15 their sick leave for their employer's demand.

16 The purpose of this Act is to require an employer to
17 provide to an employee paid leave when the employer requires the



1 employee to stay home from work or prohibits the employee from
2 returning to work because of the employee's exposure to a person
3 who tested positive for COVID-19; provided that the employee is
4 fully vaccinated and submits to a COVID-19 test within three
5 days of being notified of the exposure, the results of which are
6 negative.

7 SECTION 2. Definitions. As used in this Act:

8 "COVID-19" means coronavirus disease 2019, including any of
9 its variants.

10 "COVID-19 test" or "test" means a polymerase chain reaction
11 test used to detect genetic material of the SARS-CoV-2 virus.

12 "Employee" means a person who:

- 13 (1) Is fully vaccinated against COVID-19;
14 (2) May be permitted, required, or directed by an employer
15 for wages or pay to engage in any employment; and
16 (3) Has been employed by that employer for at least one
17 month immediately preceding the commencement of leave
18 provided under this Act.

19 "Employee benefits" means all benefits, other than salary
20 and wages, provided or made available to an employee by an
21 employer and includes group life insurance, health insurance,



1 disability insurance, and pensions, regardless of whether
2 benefits are provided by a policy or practice of an employer.

3 "Employer" means any private:

4 (1) Person;

5 (2) Partnership;

6 (3) Corporation;

7 (4) Association; or

8 (5) Other business entity,

9 that employs a total of at least employees and non-
10 vaccinated individuals.

11 "Fully vaccinated" means a person who has received:

12 (1) The primary series of COVID-19 vaccines; or

13 (2) If applicable, all recommended booster doses,

14 as determined by the United States Center for Disease Control
15 and Protection.

16 SECTION 3. Inapplicability. This Act shall not apply to
17 any leave of absence provided to any public employee required to
18 stay home from work or prohibited from returning to work because
19 of COVID-19 exposure.

20 SECTION 4. Leave requirement. (a) An employer shall
21 provide to an employee paid leave when the employer requires the



1 employee to stay home from work or prohibits the employee from
2 returning to work because of the employee's exposure to a person
3 who tested positive for COVID-19; provided that the employee:

4 (1) Submits to a COVID-19 test within three days of being
5 notified of the exposure, the results of which are
6 negative, and submits written verification to the
7 employer of the negative test result; and

8 (2) Submits to the employer proof that they are fully
9 vaccinated.

10 (b) Any period of time during which an employee is
11 required to be absent from work pursuant to this section shall
12 not constitute a break in the employee's continuous service for
13 the purpose of the employee's right to salary adjustments, sick
14 leave, vacation, annual leave, or seniority. During any period
15 that an employee is out from work pursuant to subsection (a),
16 the employer shall maintain and pay for coverage under a group
17 health plan, as defined in section 5000(b) of the Internal
18 Revenue Code of 1986, as amended, for the full duration of the
19 absence, in the same manner as the coverage would have been
20 maintained if the employee had been actively at work during the
21 period of absence.



1 (c) This Act shall not affect the obligation of an
2 employer to comply with any collective bargaining agreement or
3 employee benefit plan that provides greater leave rights to
4 employees than the rights provided under this Act.

5 (d) Notwithstanding any other provision to the contrary,
6 paid leave provided pursuant to this section shall not be taken
7 concurrently with any leave taken pursuant to the federal Family
8 and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) or
9 chapter 398, Hawaii Revised Statutes.

10 (e) Paid leave provided pursuant to this section may be
11 taken in one or more periods.

12 SECTION 5. Restoration of employment. An employer, upon
13 expiration of the paid leave authorized by this Act, shall
14 restore an employee to the position held by the employee when
15 the leave began or to a position with equivalent seniority
16 status, employee benefits, pay, and other terms and conditions
17 of employment. An employer may decline to restore an employee
18 as required in this section because of conditions unrelated to
19 the employee's exercise of rights under this Act.



1 SECTION 6. Employee rights. (a) An employer shall not
2 interfere with, restrain, or deny the exercise of, or an attempt
3 to exercise, a right established by this Act.

4 (b) An employer shall not discharge, fine, suspend, expel,
5 discipline, or in any other manner discriminate against an
6 employee who:

7 (1) Exercises a right provided under this Act; or

8 (2) Opposes a practice made unlawful by this Act.

9 SECTION 7. Civil action. An employee may bring a civil
10 action to enforce this Act. The court may enjoin any act or
11 practice that violates this Act and may order any equitable
12 relief necessary and appropriate to redress the violation or to
13 enforce this Act.

14 SECTION 8. This Act shall take effect on July 1, 2050, and
15 shall be repealed on June 30, 2023.

16



Report Title:

Pandemic Leave; COVID-19 Exposure; Employees

Description:

Provides for paid leave for fully vaccinated employees required to stay home from work or prohibited from returning to work because of COVID-19 exposure who submit to a test within three days of being notified of the exposure and receive negative test results. Effective 7/1/2050. Repeals 6/30/2023. (HD1)

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