

SECOND REGULAR SESSION

HOUSE BILL NO. 2185

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LOW (39) (Sponsor), OXFORD, GEORGE, VOGT,
DARROUGH, LeVOTA, FALLERT AND NASHEED (Co-sponsors).

Read 1st time February 18, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4547L.01I

AN ACT

To amend chapter 290, RSMo, by adding thereto one new section relating to paid sick days.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 290, RSMo, is amended by adding thereto one new section, to be
2 known as section 290.540, to read as follows:

**290.540. 1. This section shall be known as and may be cited as the "Paid Sick Days
2 Act".**

3 2. As used in this section, the following words shall mean:

**4 (1) "Child", a biological, adopted, or foster child, stepchild, legal ward, or child of
5 a parent standing in loco parentis who is less than eighteen years of age, or eighteen years
6 of age or older but incapable of earning wages because of a mental or physical incapacity;**

**7 (2) "Employee", any person who performs services for an employer for wage,
8 remuneration, or other compensation;**

**9 (3) "Employer", any individual, corporation, partnership, or other entity, including
10 any agent thereof, who engages the services of an employee or employees for wages,
11 remuneration, or other compensation;**

**12 (4) "Federal act", the Family Medical Leave Act of 1993, 29 U.S.C. Sections 2601
13 to 2654, as amended;**

14 (5) "Health care provider":

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 (a) A doctor of medicine or osteopathy who is authorized to practice medicine or
16 surgery by the state in which the doctor practices; or

17 (b) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors,
18 limited to treatment consisting of manual manipulation of the spine to correct a
19 subjugation as demonstrated by X-ray to exist, authorized to practice in this state and
20 performing within the scope of their practice as defined under state law; and

21 (c) Nurse practitioners, nurse-midwives, and clinical social workers who are
22 authorized to practice under state law and who are performing within the scope of their
23 practice as defined under state law; and

24 (d) Any health care provider from whom an employer or a group health plan's
25 benefits manager will accept certification of the existence of a serious health condition to
26 substantiate a claim for benefits;

27 (6) "Parent", a biological, foster, stepparent, or adoptive parent of an employee or
28 an employee's spouse, or other person who stood in loco parentis during the childhood of
29 an employee or employee's spouse;

30 (7) "Pro rata", the proportion of wages paid to part-time employees that is equal
31 to the ratio of part-time hours worked to full-time hours worked;

32 (8) "Sick day", a day when an employee is unable to report to work because of
33 medical or health reasons due to illness, injury, health condition, or preventative routine
34 care for himself or herself, or for a child, spouse, parent, or parent of a spouse.

35 3. All employees who work in this state shall be entitled to not less than seven sick
36 days with pay during a twelve-month period, or to a pro rata number of days of paid leave
37 for employees working less than thirty hours per week on a year-round basis; or less than
38 one thousand five hundred hours throughout the twelve-month period involved. The
39 twelve-month period for each employee shall be calculated from the date of hire or
40 subsequent anniversary date. Paid sick days shall be provided to an employee by an
41 employer for:

42 (1) Care for the employee's child, spouse, parent, or parent of a spouse who is
43 suffering from an illness, injury, or health condition that requires home care, the attention
44 of a health care provider, or that is covered under the federal act;

45 (2) Care for the employee's own illness, injury, or health condition that requires
46 home care, the attention of a health care provider, or that is covered under the federal act;

47 (3) An employee to attend a routine medical appointment for employee's self, child,
48 spouse, parent, or parent of a spouse.

49 4. Leave under this section shall be made available for use intermittently and on
50 a reduced work schedule basis.

51 5. Paid sick days provided for under this section shall accrue as determined
52 appropriate by the employer, but not less than on a quarterly basis.

53 6. (1) Leave may be used as accrued or be loaned by the employer to the employee
54 in advance of accrual by such employee.

55 (2) If the schedule of an employee varies from week to week, a weekly average of
56 the hours worked over the twelve-week period prior to the beginning of a sick day payout
57 shall be used to calculate the employee's normal work week for the purposes of
58 determining the amount of paid sick days to which the employee is entitled.

59 7. An employer may require certification of the qualifying illness, injury, or health
60 condition when three paid sick days or more are taken consecutively. Any reasonable
61 documentation signed by a health care provider involved in following or treating the
62 illness, injury, or health condition, and indicating the need for the amount of sick days
63 taken, shall be deemed acceptable certification. Nothing in this section shall be construed
64 to require an employee to provide as certification any information from a health care
65 provider that would be in violation of Section 1177 of the Social Security Act (42 U.S.C.
66 1320d-6) or the regulations promulgated under Section 264(c) of the Health Insurance
67 Portability and Accountability Act (42 U.S.C. 1320d-2 note).

68 8. Paid sick days shall carry over annually to the extent not used by the employee,
69 but unless the employer chooses otherwise, unused accrued paid sick days shall not
70 accumulate to more than seven days, nor be reimbursed upon the termination or
71 resignation of any employee.

72 9. It shall be unlawful for any employer to interfere with, restrain, or deny the
73 exercise of, or the attempt to exercise, any right provided under or in connection with this
74 section.

75 10. It shall be unlawful for any employer to take any adverse action against an
76 employee because the employee:

77 (1) Exercises rights under this section;

78 (2) Opposes practices which such employer believes to be in violation of this
79 section; or

80 (3) Supports the exercise of rights of another under this section.

81 11. The attorney general shall enforce this section, and may obtain injunctive or
82 declaratory relief for this purpose, including damages for any loss of wages and other
83 benefits. An employee so aggrieved and who prevails in such an action shall be entitled to
84 an award of the costs of the litigation and reasonable attorney fees.

85 **12. Nothing in this section shall be construed to discourage employers from**
86 **adopting or retaining leave policies more generous than policies that comply with the**
87 **requirements of this section.**

88 **13. Employers who are already providing paid sick days in accordance with this**
89 **section shall be deemed in compliance with this section.**

90 **14. A notice of the provisions of this section shall be prepared by the attorney**
91 **general and posted in every establishment where employees having rights under this**
92 **section work. Such notice shall be posted in a conspicuous location accessible to the**
93 **employees.**

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