

AMENDMENTS TO LB305

Introduced by Business and Labor.

1           1. Strike the original sections and insert the following new  
2 sections:

3           Section 1. Sections 1 to 9 of this act shall be known and may be  
4 cited as the Healthy and Safe Families and Workplaces Act.

5           Sec. 2. For purposes of the Healthy and Safe Families and  
6 Workplaces Act:

7           (1) Commissioner means the Commissioner of Labor;

8           (2) Department means the Department of Labor;

9           (3) Domestic abuse means any behavior within an intimate  
10 relationship that causes physical, psychological, or emotional harm to  
11 those in the relationship, including behavior that causes the employee  
12 fear or concern for his or her own safety or the safety of someone close  
13 to the employee or behavior done with the intent to harm or exert control  
14 over the employee;

15           (4) Domestic assault means domestic assault in the first, second, or  
16 third degree under section 28-323 or any similar crime committed in  
17 another state;

18           (5) Employee means any individual employed by an employer who  
19 receives compensation from such employer and includes recipients of  
20 public benefits who are engaged in work activity as a condition of  
21 receiving public assistance. Employee includes both full-time and part-  
22 time employees. Employee does not include a minor child employed by his  
23 or her parent.

24           (6) Employer includes any individual, partnership, limited liability  
25 company, association, corporation, business trust, legal representative,  
26 or any organized group of persons employing four or more employees at any  
27 one time, excluding any employees who work no more than twenty weeks in

1 any calendar year, but does not include the United States, the State of  
2 Nebraska, or any political subdivision thereof;

3 (7) Family member means:

4 (a) A biological, adopted, or foster child, a stepchild, or a legal  
5 ward of an employee or the employee's spouse or a person to whom the  
6 employee or the employee's spouse stood in loco parentis when such person  
7 was a minor child, regardless of the age or dependency status of such  
8 child, stepchild, legal ward, or person;

9 (b) A biological, adoptive, or foster parent, a stepparent, or a  
10 legal guardian of an employee or the employee's spouse or a person who  
11 stood in loco parentis to the employee or the employee's spouse when the  
12 employee or the employee's spouse was a minor child;

13 (c) An employee's spouse; or

14 (d) A grandparent, grandchild, or sibling, whether of a biological,  
15 foster, adoptive, or step relationship, of the employee or the employee's  
16 spouse;

17 (8) Health care professional means any person licensed under federal  
18 or state law to provide medical or emergency services, including, but not  
19 limited to, doctors, nurses, and emergency room personnel;

20 (9) Paid sick and safe time means time that is compensated at the  
21 same hourly rate and with the same benefits, including health care  
22 benefits, as the employee normally earns during hours worked and is  
23 provided by an employer to an employee for the purposes described in  
24 section 4 of this act, but in no case shall the hourly wage be less than  
25 that provided under the Wage and Hour Act;

26 (10) Sexual assault means sexual assault under section 28-319 or  
27 28-320, sexual assault of a child under section 28-319.01 or 28-320.01,  
28 sexual assault by use of an electronic communication device under section  
29 28-320.02, or any similar crime committed in another state; and

30 (11) Stalking means stalking under section 28-311.03 or any similar  
31 crime committed in another state.

1           Sec. 3. (1) Employees shall accrue a minimum of one hour of paid  
2 sick and safe time for every thirty hours worked. Such employees shall  
3 not accrue more than forty hours of paid sick and safe time in a calendar  
4 year unless the employer selects a higher limit.

5           (2) Employees who are exempt from overtime requirements under 29  
6 U.S.C. 213(a)(1) shall be assumed to work forty hours in each work week  
7 for purposes of paid sick and safe time accrual unless their normal work  
8 week is less than forty hours, in which case paid sick and safe time  
9 accrues based upon that normal work week.

10           (3) Paid sick and safe time accrual shall begin at the commencement  
11 of employment.

12           (4) Employees shall be entitled to use accrued paid sick and safe  
13 time beginning on the sixtieth calendar day following commencement of  
14 employment. After the sixtieth calendar day, employees may use paid sick  
15 and safe time as it is accrued.

16           (5) Paid sick and safe time shall be carried over to subsequent  
17 calendar years, except that an employee's use of paid sick and safe time  
18 in each calendar year shall not exceed forty hours unless the employer  
19 selects a higher limit.

20           (6) Any employer with a paid leave policy, such as a paid time off  
21 policy, who makes available an amount of paid leave which is sufficient  
22 to meet the accrual requirements for paid sick and safe time under this  
23 section and which may be used for the same purposes and under the same  
24 conditions as paid sick and safe time under the Healthy and Safe Families  
25 and Workplaces Act is not required to provide additional paid sick and  
26 safe time.

27           (7) Nothing in this section shall be construed as requiring  
28 financial or other reimbursement to an employee from an employer upon the  
29 employee's termination, resignation, retirement, or other separation from  
30 employment for accrued paid sick and safe time that has not been used.

31           (8) If an employee is transferred to a separate division, entity, or

1 location, but remains employed by the same employer, the employee shall  
2 be entitled to all paid sick and safe time accrued at the prior division,  
3 entity, or location and is entitled to use all paid sick and safe time as  
4 provided in this section. When there is a separation from employment and  
5 the employee is rehired within six months after separation by the same  
6 employer, previously accrued paid sick and safe time that had not been  
7 used shall be reinstated, and the employee shall be entitled to use  
8 accrued paid sick and safe time and accrue additional paid sick and safe  
9 time at the recommencement of employment.

10 (9) At its discretion, the employer may loan paid sick and safe time  
11 to the employee in advance of accrual by such employee.

12 Sec. 4. (1) An employer shall allow an employee to use paid sick  
13 and safe time for:

14 (a) An employee's mental or physical illness, injury, or health  
15 condition; an employee's need for medical diagnosis, care, or treatment  
16 of a mental or physical illness, injury, or health condition; or an  
17 employee's need for preventive medical care;

18 (b) Care of a family member with a mental or physical illness,  
19 injury, or health condition; care of a family member who needs medical  
20 diagnosis, care, or treatment of a mental or physical illness, injury, or  
21 health condition; or care of a family member who needs preventive medical  
22 care; or

23 (c) Absence necessary due to domestic abuse, domestic assault,  
24 sexual assault, or stalking, regardless of whether a charge has been  
25 filed or a conviction has been obtained, if the leave is to allow the  
26 employee to obtain any of the following for the employee or the  
27 employee's family member:

28 (i) Medical attention needed to recover from physical or  
29 psychological injury or disability caused by such domestic abuse,  
30 domestic assault, sexual assault, or stalking;

31 (ii) Services from a victim services organization;

1           (iii) Psychological or other counseling;

2           (iv) Relocation due to the domestic abuse, domestic assault, sexual  
3 assault, or stalking; or

4           (v) Legal services, including preparing for or participating in any  
5 civil or criminal legal proceeding relating to or resulting from the  
6 domestic abuse, domestic assault, sexual assault, or stalking.

7           (2) Paid sick and safe time shall be provided upon the oral request  
8 of an employee as soon as practicable after the employee is aware of the  
9 need for such paid sick and safe time. The request shall include the  
10 expected duration of the absence, if reasonably possible.

11           (3) An employer cannot require, as a condition of an employee's  
12 taking paid sick and safe time, that the employee search for or find a  
13 replacement worker to cover the hours during which the employee is on  
14 paid sick and safe time.

15           (4) Accrued paid sick and safe time may be used in the smaller of  
16 hourly increments or the smallest increment that the employer's payroll  
17 system uses to account for absences or use of other time.

18           (5)(a) If the use of paid sick and safe time exceeds more than three  
19 consecutive workdays, an employer may require reasonable documentation  
20 that the paid sick and safe time has been used for a purpose described in  
21 subsection (1) of this section.

22           (b) Documentation signed by a health care professional indicating  
23 that sick time is necessary shall be considered reasonable documentation.

24           (c) The following documentation shall be considered reasonable  
25 documentation for absences due to domestic abuse, domestic assault,  
26 sexual assault, or stalking:

27           (i) A police report indicating that the employee or his or her  
28 family member was a victim of domestic abuse, domestic assault, sexual  
29 assault, or stalking;

30           (ii) A court order protecting or separating the employee or his or  
31 her family member from the perpetrator of an act of domestic abuse,

1 domestic assault, sexual assault, or stalking or other evidence from the  
2 court or prosecuting attorney that the employee or his or her family  
3 member has appeared in court or is scheduled to appear in court in a  
4 proceeding related to the domestic abuse, domestic assault, sexual  
5 assault, or stalking; or

6 (iii) Other documentation signed by an advocate as defined in  
7 section 29-4302, an attorney, a police officer, a licensed mental health  
8 professional, a medical professional, a social worker, an antiviolence  
9 counselor, or a member of the clergy affirming that the employee or his  
10 or her family member is a victim of domestic abuse, domestic assault,  
11 sexual assault, or stalking.

12 (d) The employee may choose the type of applicable documentation to  
13 submit and the employer shall not require more than one type of  
14 reasonable documentation for the same incident.

15 (e) An employer shall not require that the documentation explain the  
16 nature of the illness or the details of the domestic abuse, domestic  
17 assault, sexual assault, or stalking.

18 (f) If required by the employer, the employee shall provide such  
19 reasonable documentation to the employer no later than thirty days after  
20 the first day of the period of time for which the employee is requesting  
21 paid sick and safe time. The employer shall not delay the commencement of  
22 paid sick and safe time on the basis that the employer has not yet  
23 received the documentation.

24 (6) Any information provided to an employer regarding paid sick and  
25 safe time shall be confidential except to the extent that any disclosure  
26 of such information is:

27 (a) Requested or consented to in writing by the employee;

28 (b) Otherwise required by federal or state law; or

29 (c) Necessary to prevent a clear and definite danger to other  
30 employees.

31 Sec. 5. (1) It shall be unlawful for an employer or any other

1 person to interfere with, restrain, or deny the exercise of, or the  
2 attempt to exercise, any right protected under the Healthy and Safe  
3 Families and Workplaces Act.

4 (2) An employer shall not take retaliatory personnel action or  
5 discriminate against an employee because the employee has exercised  
6 rights protected under the act. Such rights include, but are not limited  
7 to, the right to use paid sick and safe time pursuant to the act, the  
8 right to file a complaint or inform any person about any employer's  
9 alleged violation of the act, the right to cooperate with the department  
10 in its investigations of alleged violations of the act, and the right to  
11 inform any person of his or her potential rights under the act.

12 (3) It is unlawful for an employer's absence control policy to count  
13 paid sick and safe time taken under the act as an absence that may lead  
14 to or result in discipline, discharge, demotion, suspension, or any other  
15 adverse action.

16 (4) Protections under this section shall apply to any person who  
17 mistakenly but in good faith alleges violations of the act.

18 Sec. 6. Employers shall give notice at the time of hire that  
19 employees are entitled to paid sick and safe time, the amount of paid  
20 sick and safe time, the terms of use for paid sick and safe time  
21 guaranteed under the Healthy and Safe Families and Workplaces Act, that  
22 retaliation against employees who request or use paid sick and safe time  
23 is prohibited, and that each employee has the right to file a complaint  
24 or bring a civil action if paid sick and safe time is denied by the  
25 employer or the employee is retaliated against for exercising his or her  
26 rights under the act.

27 Sec. 7. (1) An employee or other person may report to the  
28 commissioner any suspected violation of the Healthy and Safe Families and  
29 Workplaces Act. The commissioner shall encourage reporting pursuant to  
30 this subsection by keeping confidential, to the maximum extent permitted  
31 by applicable law, the name and other identifying information of the

1 employee or person reporting the suspected violation, except that with  
2 the authorization of such person, the commissioner may disclose the  
3 person's name and identifying information as necessary to enforce the act  
4 or for other appropriate purposes. The commissioner may summon witnesses  
5 and require the production of records, books, and documents for  
6 examination in any investigation conducted by the department pursuant to  
7 this section. The commissioner shall assess an administrative penalty  
8 against an employer when an investigation reveals that the employer  
9 violated the act. The administrative penalty shall be not more than five  
10 hundred dollars in the case of a first violation and not more than five  
11 thousand dollars in the case of a second or subsequent violation. The  
12 commissioner shall notify the employer of the proposed administrative  
13 penalty by certified mail or any other manner of delivery by which the  
14 United States Postal Service can verify delivery. The employer shall have  
15 fifteen working days after the date the commissioner sends notification  
16 of the penalty to contest such penalty. Notice of contest shall be sent  
17 to the commissioner who shall provide a hearing in accordance with the  
18 Administrative Procedure Act.

19 (2) Any person aggrieved by a violation of the Health and Safe  
20 Families and Workplaces Act or any entity, a member of which is aggrieved  
21 by a violation of the act, may bring a civil action in a court of  
22 competent jurisdiction against an employer who violates the act. The  
23 action may be brought without first filing an administrative complaint.  
24 Upon prevailing in an action brought pursuant to this subsection, an  
25 aggrieved person shall recover:

26 (a) The full amount of any unpaid sick and safe time; and

27 (b) Attorney's fees and costs associated with the action.

28 Sec. 8. (1) Nothing in the Healthy and Safe Families and Workplaces  
29 Act shall be construed to discourage or prohibit an employer from the  
30 adoption or retention of a paid sick and safe time policy that is more  
31 generous than the policy required by the act.



1           (2) The act provides minimum requirements pertaining to paid sick  
2 and safe time and shall not be construed to preempt, limit, or otherwise  
3 affect the applicability of any other law, rule, regulation, requirement,  
4 policy, contract, or standard that provides for greater accrual or use by  
5 employees of sick and safe time, whether paid or unpaid, or that extends  
6 other protections to employees.

7           Sec. 9. The department shall administer and enforce the Healthy and  
8 Safe Families and Workplaces Act and may adopt and promulgate rules and  
9 regulations to carry out the purposes of the act.

10           Sec. 10. If any section in this act or any part of any section is  
11 declared invalid or unconstitutional, the declaration shall not affect  
12 the validity or constitutionality of the remaining portions.