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SB-1105 Paid sick leave: agricultural employees: emergencies. (2023-2024)

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Senate Bill No. 1105

CHAPTER 525

An act to amend Section 246.5 of the Labor Code, relating to paid sick leave.

[Approved by Governor September 24, 2024. Filed with Secretary of State September 24, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1105, Padilla. Paid sick leave: agricultural employees: emergencies.

Existing law, the Healthy Workplaces, Healthy Families Act of 2014, entitles an employee who works in California for the same employer for 30 or more days within one year from the commencement of employment to paid sick days, as specified. Existing law requires an employer to, upon the oral or written request of an employee, provide paid sick days for specified purposes, including the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member.

Existing law prohibits an employer from denying an employee the right to use accrued sick days, or to discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using or attempting to use accrued sick days. Existing law requires the Labor Commissioner to enforce the act, including investigating an alleged violation, and authorizes the Labor Commissioner to order any appropriate relief, as specified, to an employee or other person whose rights under the act were violated.

This bill would also require paid sick days to be provided to agricultural employees, as defined, who work outside and are entitled to paid sick days, as described, to avoid smoke, heat, or flooding conditions created by a local or state emergency, as described. The bill would declare that these provisions are declarative of existing law to the extent that the sick days are necessary for preventive care, as provided.

This bill would incorporate additional changes to Section 246.5 of the Labor Code proposed by AB 2499 to be operative only if this bill and AB 2499 are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 246.5 of the Labor Code is amended to read:

246.5. (a) Upon the oral or written request of an employee, an employer shall provide paid sick days for the following purposes:

- (1) Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member.

(2) For an employee who is a victim of domestic violence, sexual assault, or stalking, the purposes described in subdivision (c) of Section 230 and subdivision (a) of Section 230.1.

(3) (A) For an employee who is an agricultural employee, as defined in Section 9110, who works outside and who is entitled to paid sick days under this article, to avoid smoke, heat, or flooding conditions created by a local or state emergency, including, but not limited to, when the employee's worksite is closed due to the smoke, heat, or flooding conditions.

(B) For purposes of this paragraph, there are smoke, heat, or flood conditions created by a local or state emergency if the Governor proclaims a state of emergency pursuant to Section 8625 of the Government Code, or a local emergency is proclaimed pursuant to Section 8630 of the Government Code, due to smoke, heat, or flooding conditions that prevent agricultural employees from working.

(b) An employer shall not require as a condition of using paid sick days that the employee search for or find a replacement worker to cover the days during which the employee uses paid sick days.

(c) (1) An employer shall not deny an employee the right to use accrued sick days, discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using accrued sick days, attempting to exercise the right to use accrued sick days, filing a complaint with the department or alleging a violation of this article, cooperating in an investigation or prosecution of an alleged violation of this article, or opposing any policy or practice or act that is prohibited by this article.

(2) There shall be a rebuttable presumption of unlawful retaliation if an employer denies an employee the right to use accrued sick days, discharges, threatens to discharge, demotes, suspends, or in any manner discriminates against an employee within 30 days of any of the following:

(A) The filing of a complaint by the employee with the Labor Commissioner or alleging a violation of this article.

(B) The cooperation of an employee with an investigation or prosecution of an alleged violation of this article.

(C) Opposition by the employee to a policy, practice, or act that is prohibited by this article.

(d) Notwithstanding subdivision (a) of Section 245.5, for purposes of this section, "employee" shall include an employee described in paragraph (1) of subdivision (a) of Section 245.5.

SEC. 1.5. Section 246.5 of the Labor Code is amended to read:

246.5. (a) Upon the oral or written request of an employee, an employer shall provide paid sick days for the following purposes:

(1) Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member.

(2) For an employee who is a victim or whose family member is a victim, as defined in subdivision (j) of Section 12945.8 of the Government Code, the purposes described in paragraph (3) of subdivision (a), or subdivision (b), of Section 12945.8 of the Government Code.

(3) (A) For an employee who is an agricultural employee, as defined in Section 9110, who works outside and who is entitled to paid sick days under this article, to avoid smoke, heat, or flooding conditions created by a local or state emergency, including, but not limited to, when the employee's worksite is closed due to the smoke, heat, or flooding conditions.

(B) For purposes of this paragraph, there are smoke, heat, or flood conditions created by a local or state emergency if the Governor proclaims a state of emergency pursuant to Section 8625 of the Government Code, or a local emergency is proclaimed pursuant to Section 8630 of the Government Code, due to smoke, heat, or flooding conditions that prevent agricultural employees from working.

(b) An employer shall not require as a condition of using paid sick days that the employee search for or find a replacement worker to cover the days during which the employee uses paid sick days.

(c) (1) An employer shall not deny an employee the right to use accrued sick days, discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using accrued sick days, attempting to exercise the right to use accrued sick days, filing a complaint with the department or alleging a violation of this article, cooperating in an investigation or prosecution of an alleged violation of this article, or opposing any policy or practice or act that is prohibited by this article.

(2) There shall be a rebuttable presumption of unlawful retaliation if an employer denies an employee the right to use accrued sick days, discharges, threatens to discharge, demotes, suspends, or in any manner discriminates against an employee within 30 days of any of the following:

(A) The filing of a complaint by the employee with the Labor Commissioner or alleging a violation of this article.

(B) The cooperation of an employee with an investigation or prosecution of an alleged violation of this article.

(C) Opposition by the employee to a policy, practice, or act that is prohibited by this article.

(d) Notwithstanding subdivision (a) of Section 245.5, for purposes of this section, "employee" shall include an employee described in paragraph (1) of subdivision (a) of Section 245.5.

SEC. 2. The addition of subparagraph (A) of paragraph (3) to subdivision (a) of Section 246.5 of the Labor Code as added during the second year of the 2023–2024 Regular Session, does not constitute a change in, but is declaratory of, existing law to the extent that the sick days are necessary for preventive care as provided in paragraph (1) of subdivision (a) of Section 246.5 of the Labor Code.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 246.5 of the Labor Code proposed by both this bill and Assembly Bill 2499. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2025, (2) each bill amends Section 246.5 of the Labor Code, and (3) this bill is enacted after Assembly Bill 2499, in which case Section 1 of this bill shall not become operative.