

# Questions and Answers About the Proposed Ohio Healthy Families Act

*Initiated Legislation backed by the Service Employees International Union (SEIU)*

Q. What does this proposed law require?

A. This proposed law requires all Ohio employers **with 25 or more** employees to provide **seven paid sick days** to all employees working 30 hours or more per week and a pro rated amount of paid sick leave annually to all employees working less than 30 hours per week or less than 1,560 hours per year.

Q. Don't Ohio employers already have to provide sick leave?

A. Currently, companies with 50 or more employees must comply with the federal Family Medical Leave Act (FMLA). FMLA requires employers to provide **uncompensated** time off for personal health conditions and certain family medical situations. The Ohio Healthy Families Act greatly increases the number of companies that must comply with mandated **paid** sick leave and allows the leave to be taken for any medical condition including elective surgeries.

Q. For what circumstances can an employee use paid sick leave?

A. Under this proposal, employees would be able to use **paid** sick leave for **any absence** resulting from a physical or mental illness, injury or medical condition of the employee or family member. Paid sick leave would also be allowed to be used for time missed for doctor's visits for the employee or the employee's family member.

Q. What kind of medical documentation does the employee have to provide?

A. Unless three consecutive days are missed, **no medical documentation** can be required. For leave that is three consecutive days or longer, an employee will have 30 days to produce certification from a health care professional.

Q. With documentation only required for three consecutive days, won't the mandate be abused?

A. While the majority of employees don't abuse company policies, there are those employees who do. If employees have 30 days in which to produce documentation, the employee could be paid for the leave before documentation is produced. An employer cannot delay the commencement of the leave just because the employee has not yet produced documentation.

Q. Do other states provide mandate sick leave?

A. This proposal would make Ohio the only state in the nation that would **require paid sick leave**. Thus, putting Ohio at a **severe disadvantage** when trying to attract new companies and jobs to the state and discouraging existing companies to expand. There are several states with paid sick leave proposals pending in their respective legislatures. But, the city of San Francisco and Washington DC are the only jurisdictions that have enacted such a policy.

Q. Where did this proposal come from?

A. This proposal is similar to the federal Healthy Families Act proposed several times in the U.S. Senate by Sen. Ted Kennedy. The latest version of this federal bill was introduced in March 2007 and is currently pending in the Committee on Health, Education, Labor and Pensions but no action has been taken. In states and cities where similar proposals are being debated, paid sick leave has the backing of labor unions. Even though the labor unions claim the proposal is good for business, everyone knows that mandating benefits reduces flexibility and adds unnecessary costs.

Q. Are there any other motives behind this proposal?

A. This proposal is probably another get out the vote issue that tries to deliver people to the polls for the national presidential election. However, if Ohio's proposal is enacted, it will be the **ONLY** state in the union with a mandated sick leave policy.

Q. What is the status of Ohio's proposal?

A. The labor unions that are pushing this issue collected enough signatures to place it before the Ohio General Assembly. The legislature has until May 2008 to act on the legislation. If no action is taken by the legislature or if the legislature passes something that is unacceptable to the union, another 120,683 signatures must be collected to place the issue before the voters on the November 4, 2008, ballot.

Q. Will this apply to a company that is headquartered out of state but has employees in Ohio?

A. As long as a company employs at least 25 people in Ohio, the law will apply irregardless of the out of state company's paid time off policy. Thus, companies would not have consistent leave policies from state to state.

Q. Does the employee have to take the paid leave in increments of full days?

A. **No**, the paid leave can be used on an hourly basis or in the smallest increment used to track the employee's time. So if time is tracked in hours, paid sick leave can be taken in one-hour increments. If an employee took sick leave in only one-hour increments, he or she could be absent 56 times during the year (seven days times eight hours in a day). If time is tracked in 15-minute increments, it can be taken in 15-minute increments. Thus, an employee could be absent 224 times during the year (an eight hour day has 32, 15-minute increments times seven days).

Q. What about those companies where employee schedules vary from week to week?

A. For employees whose schedule varies on a weekly basis, a weekly average of hours worked over a 12-week period must be used to calculate the accrual of sick leave. This means additional paperwork and additional staff time for companies to keep track of accrued time.

Q. What if a company already provides paid sick leave?

A. An employer with a policy is not required to modify its policy **IF** the existing policy is at least equivalent to the mandated sick leave. So employers will have to review their

policies to make sure they are providing “equivalent” leave. But, the proposal is very vague and it is not entirely clear whether a company that provides seven days of **paid time off** would satisfy the mandated seven days of **paid sick leave**.

Q. When does an employee become eligible to use paid sick leave?

A. Sick leave would accumulate at least monthly and begin accruing upon hire. However, employers would not be required to grant sick leave during the first 90 days of employment. So if employees currently begin accruing sick leave after a probationary period, the employer may need to change its policy so that employees accrue it sooner.

Q. Will this proposal allow employees to carry over unused sick days?

A. Unused sick days may be accumulated from year to year, but employers would not be required to permit the accumulation of more than seven days per year. It is unclear what this means because details of the proposal are not spelled out. For example, it is not clear whether an employee can carry over sick days from year to year allowing an indefinite number of days to be accrued.

Q. When an employee leaves the company for any reason, are they required to be compensated for unused sick leave?

A. The initiated legislation is vague in this area so it will be left up to the employer to interpret the intent of the law. This could cause the company to spend unnecessary funds and time consulting attorneys for an answer.

Information provided by the Ohio Chamber of Commerce.