

Rhode Island Healthy and Safe Families and Workplaces Act
RI Business Coalition Mitigation Proposal
7/4/2017

	Original Mitigation Language	H.5143 / S.0290	Senate Sub A	House Sub A Draft	Revised Mitigation Language
Exemptions	Any employer with a paid leave time off policy or paid sick and safe leave policy who gives at least 24 hours Any employer that employs less than 50 employees (per RI FMLA)	None	Any employer with 10 employees or less required to offer <i>unpaid</i> sick leave (accrual and usage policies the same)	Any employer with 17 employees or less required to offer <i>unpaid</i> sick leave (accrual and usage policies the same) Employees in construction industry that work under collective bargaining agreement (exempt from paid sick leave only)	Any employer with a paid leave time off policy/paid sick leave policy who makes available at least 24 hours in 2018, 32 hours in 2019, and up to a max of 40 hours per year thereafter Any employer subject to a collective bargaining agreement Any employer with less than 25 employees Municipalities
Employee Exemptions	Per §§28-12-2 & 28-6.10-2(2): Temporary Seasonal (under 20 weeks) Independent Contractors Subcontractors Work Study Participants Apprenticeships Interns	None	Per diem nurses Interns/Work Study (entitled to unpaid sick time)	Per diem nurses Interns/Work Study (entitled to unpaid sick time)	Those not considered employees under §28-12-2 Seasonal workers (less than 20 weeks) Temporary workers (§28-6.10-2(2)) Independent contractors Subcontractors Work study participants (42 U.S.C. §2753.23) Apprenticeships Interns (FLSA section 3(e))
Hours Accrued	24 Hours	56 Hours	2018: 32 hours; 2019: 40 hours	2018: 24 hours 2019: 32 hours 2020: 40 hours	2018: 24 hours 2019: 32 hours 2020: 40 hours
Accrual Rate	1 hour/40 hours	1 hour/30 hours	1 hour/30 hours	1 hour/30 hours	1 hour/40 hours
Accrual Start Date	Day of hire	Day of hire	Day of hire	Day of hire/effective date (whichever is later)	Day of hire/effective date
Use Start Date	90 days	90 days	Regular employees: 90 days Municipal Temp employees: 180 days Municipal Seasonal employees (16 weeks under municipal employee section): 120 days	Regular employees: 90 days Temp & Municipal Casual employees: 180 days Municipal Seasonal employees (16 weeks under municipal employee section): 120 days	90 days (or sooner - up to employer)
Carry Over Hours	Up to employer	56 hours	40 hours	Unused time carried over (usage limited to 24 hours in 2018, 32 hours in 2019, and 40 hours thereafter)	Up to employer
Break In Service	Per 29 CFR 791.2. of the Federal Fair Labor Standards Act, 29 U.S.C. §§201 et seq.: Under 3 months: keep all accrued time, no waiting period	Under 12 months: keep all accrued time, no waiting period	Under 135 days (4.5 months)	Under 135 days (4.5 months)	Under 120 days
Who Can it be Used For?	Per RI FMLA: Employee Children Spouse Domestic Partner Parents Grandparents Siblings In-Laws Any individual whose close association with the employee is the equivalent of a family relationship	Employee Children Spouse Domestic Partner Parents Grandparents Siblings In-Laws Any individual whose close association with the employee is the equivalent of a family relationship	Employee Child Parent Spouse Domestic Partner Grandparent Grandchild Sibling Care Recipient Member of employee's household	Employee Child Parent Spouse Domestic Partner Grandparent Grandchild Sibling Care Recipient Member of employee's household	Match TCI definition: Child Parent Spouse Domestic Partner Parent-in-Law Grandparent

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What Can it be Used For?	Care for self or family member: Mental/physical illness, injury or health condition; Medical diagnosis or preventative medical care; Domestic violence, sexual assault or stalking unless the employee is the perpetrator of the crime	Care for self or family member: Mental/physical illness, injury or health condition; Medical diagnosis or preventative medical care; Domestic violence, sexual assault or stalking	Care for self or family member: Mental/physical illness, injury or health condition; Medical diagnosis or preventative medical care; Domestic violence, sexual assault or stalking	Care for self or family member; Mental/physical illness, injury or health condition; Medical diagnosis or preventative medical care; Domestic violence, sexual assault or stalking; Business closure due to public health emergency	Care for self or family member: Mental/physical illness, injury or health condition; Medical diagnosis or preventative medical care; Domestic violence, sexual assault or stalking unless the employee is the perpetrator of the crime; Business closure due to public health emergency
Shift Swapping	Voluntary shift swapping allowed	Not allowed	Voluntary shift swapping allowed	Voluntary shift swapping allowed	Voluntary shift swapping allowed
Notice Requirements	Up to employer	Good faith effort	If foreseeable, employee has to make reasonable effort to notify employer; where need is not foreseeable, employer may require notice if they have a written policy	If foreseeable, employee has to make reasonable effort to notify employer; where need is not foreseeable, employer may require notice if they have a written policy	Employer may require notice if they have a "reasonable" written policy
Documentation Requirement	Not allowed, unless required by current statute or regulation. An employer may require documentation if sick time occurs within 2 weeks prior to employee's final scheduled day of work	After 3 days	After 3 days, unless required by Food Code or employee shows clear pattern of abuse right before/after weekend, vacation or holiday	After 3 days, unless required by Food Code	After 3 days, unless required by current statute or regulation. An employer may require documentation if sick time occurs within 2 weeks prior to employee's final scheduled day of work or employee shows clear pattern of abuse right before/after weekend, vacation or holiday
Uniformity	All of chapter 28, including paid sick leave	Municipalities specially allowed to make their own, stricter language	Municipalities specially allowed to make their own, stricter language	Not addressed	Municipalities prohibited from making their own, stricter language
Ignorance of Employee	Removed; will address in regulation to allow discipline for fraud	Protections of law apply to any employee who mistakenly, but in good faith violates law	Removed; Employer can discipline for fraud	Not addressed	Not addressed
Increments of Leave Time	Removed; will address in regulation to allow employer to determine increments	Lesser of hourly increments or the smallest increments that employer's payroll system uses to account for absences	Employer choice, but cannot be more than 4 hours	Employer choice, but cannot be more than 4 hours	Employer choice, but cannot be more than 4 hours
Enforcement of Employer Violations	Same enforcement and notice as minimum wage- see §28-12-18; Violations: \$100/violation, but not to exceed \$5,000.	First offense: between \$500-\$3,000/violation; Subsequent offenses: up to \$5,000/violation	Penalties same as minimum wage, however notice and enforcement the same as original bill	Penalties same as minimum wage, however notice and enforcement the same as original bill	Enforcement and notice requirements in accordance with §28-12-1 et seq. Violations: civil penalty between \$100 and \$5,000
Employee Transfers	Use federal "Joint Enterprise" standard used for overtime	Separate division, entity or location, but remains employed by same employer	Separate division, entity or location, but remains employed by same employer	Separate division, entity or location, but remains employed by same employer	Use federal "Joint Enterprise" standard used for overtime
Effective Date	January 1, 2019 unless covered by collective bargaining agreement	January 1, 2018	January 1, 2018 (July 1, 2018 for union construction)	January 1, 2018	January 1, 2018