


MEMORANDUM

June 24, 2016

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Introduction:** Bill 27-16, Human Rights and Civil Liberties – Earned Sick and Safe Leave – Eligibility

Bill 27-16, Human Rights and Civil Liberties – Earned Sick and Safe Leave - Eligibility, sponsored by Lead Sponsor Councilmember Leventhal and Co-Sponsor Vice President Berliner, is scheduled to be introduced on June 28, 2016. A public hearing is tentatively scheduled for July 19 at 1:30 p.m.

Bill 27-16 would exempt a seasonal employee who works for less than 120 calendar days in a year at an amusement or recreational program that operates for less than 120 calendar days each year in the County from the earned sick and safe leave law. It would also provide that an employee working in the County who is paid exclusively on a commission basis accrues only unpaid sick and safe leave.

Background

Bill 60-14, Human Rights and Civil Liberties – Earned Sick and Safe Leave, enacted on June 23, 2015 and signed into law on July 2, 2015, requires an employer doing business in the County to provide a minimum amount of earned sick and safe leave for an employee who works in the County. Bill 60-14 was enacted with a delayed effective date of October 1, 2016 to give employers time to adapt their payroll systems to the new law. The County Office of Human Rights has been meeting with County businesses over the past year to explain the new law and answer questions.

Bill 27-16 would amend eligibility requirements in the law to exempt a seasonal employee who works for less than 120 calendar days in a year at an amusement or recreational program that operates for less than 120 calendar days each year in the County from the earned sick and safe leave law. This exemption would apply to workers at a seasonal business, such as a summer camp or swimming pool that operates for less than 120 days each year.

One of the questions that arose from discussions with employers was how to treat an employee who is paid exclusively by a commission on sales. Bill 60-14 is silent on this issue. Bill 27-16 would provide that an employee who is paid exclusively by commission on sales would earn only unpaid sick and safe leave.

This packet contains:

Bill 27-16

Legislative Request Report

Circle #

1

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Bill No. 27-16
Concerning: Human Rights and Civil Liberties – Earned Sick and Safe Leave - Eligibility
Revised: June 24, 2016 Draft No. 3
Introduced: June 28, 2016
Expires: December 28, 2017
Enacted: _____
Executive: _____
Effective: October 1, 2016
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Leventhal
Co-Sponsor: Vice President Berliner

AN ACT to:

- (1) exempt certain seasonal employees who work for certain amusement or recreational establishments in the County from the earned sick and safe leave law;
- (2) provide that certain employees who are paid exclusively on a commission basis accrue only unpaid sick and safe leave; and
- (2) generally regulate the eligibility for sick and safe leave benefits provided to an employee working in the County for certain employers.

By amending

Montgomery County Code
Chapter 27, Human Rights and Civil Liberties
Article XIII, Earned Sick and Safe leave
Sections 27-76 and 27-77

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

The County Council for Montgomery County, Maryland approves the following Act:

28 * * *

29 **27-77. Earned Sick and Safe Leave Required.**

30 (a) *Earned sick and safe leave.* An employer must provide each employee

31 earned sick and safe leave for work performed in the County paid at the

32 same rate and with the same benefits as the employee normally earns. A

33 tipped employee must be paid at least the County minimum wage

34 required under Section 27-68 for each hour the employee uses earned sick

35 and safe leave. A commission employee must accrue only unpaid sick

36 and safe leave. An employer with fewer than 5 employees must provide

37 each employee with both paid and unpaid sick and safe leave for work

38 performed in the County as required in subsection (c). An employee must

39 accrue paid leave before accruing unpaid leave in a calendar year.

40 * * *

41 **Sec. 2. Effective date.**

42 This Act takes effect on October 1, 2016.

43 *Approved:*

44

Nancy Floreen, President, County Council Date

45 *Approved:*

46

Isiah Leggett, County Executive Date

47 *This is a correct copy of Council action.*

48

Linda M. Lauer, Clerk of the Council Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 27-16

Human Rights and Civil Liberties – Earned Sick and Safe Leave - Eligibility

DESCRIPTION: Bill 27-16 would exempt a seasonal employee who works for less than 120 calendar days in a year at an amusement or recreational program that operates for less than 120 calendar days each year in the County from the earned sick and safe leave law. It would also provide that an employee working in the County who is paid exclusively on a commission basis accrues only unpaid sick and safe leave.

PROBLEM: Questions have arisen as to how to apply the Earned Sick and Safe Leave Law to a seasonal employee who works for an operation that is open less than 120 days each year and an employee who is paid exclusively by a commission on sales.

GOALS AND OBJECTIVES: The goal is to resolve questions that have been asked since the Earned Sick and Safe Leave Law was enacted.

COORDINATION: Office of Human Rights

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Robert H. Drummer, Senior Legislative Attorney

APPLICATION WITHIN MUNICIPALITIES: To be researched.

PENALTIES: None.