



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4596

Introduced 1/31/2024, by Rep. Joyce Mason

SYNOPSIS AS INTRODUCED:

820 ILCS 192/10
820 ILCS 192/15

Amends the Paid Leave for All Workers Act. Removes a provision that the Act shall not apply to any employee who is covered by a bona fide collective bargaining agreement with an employer that provides services nationally and internationally of delivery, pickup, and transportation of parcels, documents, and freight. Provides that the definition of "employee" does not include an employee as defined in the Federal Employers' Liability Act.

LRB103 37999 SPS 68131 b

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Paid Leave for All Workers Act is amended by
5 changing Sections 10 and 15 as follows:

6 (820 ILCS 192/10)

7 Sec. 10. Definitions. As used in this Act:

8 "Construction industry" means any constructing, altering,
9 reconstructing, repairing, rehabilitating, refinishing,
10 refurbishing, remodeling, remediating, renovating, custom
11 fabricating, maintenance, landscaping, improving, wrecking,
12 painting, decorating, demolishing, or adding to or subtracting
13 from any building, structure, highway, roadway, street,
14 bridge, alley, sewer, ditch, sewage disposal plant,
15 waterworks, parking facility, railroad, excavation or other
16 structure, project, development, real property, or
17 improvement, or to do any part thereof, whether or not the
18 performance of the work herein described involves the addition
19 to or fabrication into, any structure, project, development,
20 real property, or improvement herein described of any material
21 or article of merchandise.

22 "Construction industry" also includes moving construction
23 related materials on the job site or to or from the job site,

1 snow plowing, snow removal, and refuse collection.

2 "Department" means the Illinois Department of Labor.

3 "Domestic work" and "domestic worker" have the same
4 meanings as defined in Section 10 of the Domestic Workers'
5 Bill of Rights Act, except that "domestic worker" also
6 includes independent contractors, sole proprietors, and
7 partnerships.

8 "Employee" has the same application and meaning as that
9 provided in Sections 1 and 2 of the Illinois Wage Payment and
10 Collection Act. "Employee" also includes all domestic workers,
11 and, for the purposes of this Act, domestic workers shall not
12 be excluded as employees under the provisions of item (1),
13 (2), or (3) of Section 2 of the Illinois Wage Payment and
14 Collection Act. "Employee" does not include:

15 (1) an employee as defined in the federal Railroad
16 Unemployment Insurance Act (45 U.S.C. 351 et seq.) or the
17 Federal Employers' Liability Act (45 U.S.C. 51 et seq.)
18 ~~the Railway Labor Act;~~

19 (2) a student enrolled in and regularly attending
20 classes in a college or university that is also the
21 student's employer, and who is employed on a temporary
22 basis at less than full time at the college or university,
23 but this exclusion applies only to work performed for that
24 college or university; or

25 (3) a short-term employee who is employed by an
26 institution of higher education for less than 2

1 consecutive calendar quarters during a calendar year and
2 who does not have a reasonable expectation that they will
3 be rehired by the same employer of the same service in a
4 subsequent calendar year.

5 "Employer" has the same application and meaning as that
6 provided in Sections 1 and 2 of the Illinois Wage Payment and
7 Collection Act, except that for purposes of this Act,
8 "employer" also means the State and units of local government,
9 any political subdivision of the State or units of local
10 government, or any State or local government agency.

11 "Employer" does not include school districts organized
12 under the School Code or park districts organized under the
13 Park District Code.

14 "Writing" or "written" means a printed or printable
15 communication in physical or electronic format, including a
16 communication that is transmitted through electronic mail,
17 text message, or a computer system or is otherwise sent or
18 stored electronically.

19 (Source: P.A. 102-1143, eff. 1-1-24.)

20 (820 ILCS 192/15)

21 Sec. 15. Provision of paid leave.

22 (a) An employee who works in Illinois is entitled to earn
23 and use up to a minimum of 40 hours of paid leave during a
24 12-month period or a pro rata number of hours of paid leave
25 under the provisions of subsection (b). The paid leave may be

1 used by the employee for any purpose as long as the paid leave
2 is taken in accordance with the provisions of this Act.

3 (b) Paid leave under this Act shall accrue at the rate of
4 one hour of paid leave for every 40 hours worked up to a
5 minimum of 40 hours of paid leave or such greater amount if the
6 employer provides more than 40 hours. Employees who are exempt
7 from the overtime requirements of the federal Fair Labor
8 Standards Act (29 U.S.C. 213(a)(1)) shall be deemed to work 40
9 hours in each workweek for purposes of paid leave accrual
10 unless their regular workweek is less than 40 hours, in which
11 case paid leave accrues based on that regular workweek.
12 Employees shall determine how much paid leave they need to
13 use, however employers may set a reasonable minimum increment
14 for the use of paid leave not to exceed 2 hours per day. If an
15 employee's scheduled workday is less than 2 hours per day, the
16 employee's scheduled workday shall be used to determine the
17 amount of paid leave.

18 (c) An employer may make available the minimum number of
19 hours of paid leave, subject to pro rata requirements provided
20 in subsection (b), to an employee on the first day of
21 employment or the first day of the 12-month period. Employers
22 that provide the minimum number of hours of paid leave to an
23 employee on the first day of employment or the first day of the
24 12-month period are not required to carryover paid leave from
25 12-month period to 12-month period and may require employees
26 to use all paid leave prior to the end of the benefit period or

1 forfeit the unused paid leave. However, under no circumstances
2 shall an employee be credited with paid leave that is less than
3 what the employee would have accrued under subsections (a) and
4 (g) of this Section.

5 (d) The 12-month period may be any consecutive 12-month
6 period designated by the employer in writing at the time of
7 hire. Changes to the 12-month period may be made by the
8 employer if notice is given to employees in writing prior to
9 the change and the change does not reduce the eligible accrual
10 rate and paid leave available to the employee. If the employer
11 changes the designated 12-month period, the employer shall
12 provide the employee with documentation of the balance of
13 hours worked, paid leave accrued and taken, and the remaining
14 paid leave balance.

15 (e) Paid leave under this Act may be taken by an employee
16 for any reason of the employee's choosing. An employee is not
17 required to provide an employer a reason for the leave and may
18 not be required to provide documentation or certification as
19 proof or in support of the leave. An employee may choose
20 whether to use paid leave provided under this Act prior to
21 using any other leave provided by the employer or State law.

22 (f) Employees shall be paid their hourly rate of pay for
23 paid leave. However, employees engaged in an occupation in
24 which gratuities or commissions have customarily and usually
25 constituted and have been recognized as part of the
26 remuneration for hire purposes shall be paid by their employer

1 at least the full minimum wage in the jurisdiction in which
2 they are employed when paid leave is taken. This wage shall be
3 treated as the employee's regular rate of pay for purposes of
4 this Act.

5 (g) Paid leave under this Act shall begin to accrue at the
6 commencement of employment or on the effective date of this
7 Act, whichever is later. Employees shall be entitled to begin
8 using paid leave 90 days following commencement of their
9 employment or 90 days following the effective date of this
10 Act, whichever is later.

11 (h) Paid leave under this Act shall be provided upon the
12 oral or written request of an employee in accordance with the
13 employer's reasonable paid leave policy notification
14 requirements which may include the following:

15 (1) If use of paid leave under this Act is
16 foreseeable, the employer may require the employee to
17 provide 7 calendar days' notice before the date the leave
18 is to begin.

19 (2) If paid leave under this Act is not foreseeable,
20 the employee shall provide such notice as soon as is
21 practicable after the employee is aware of the necessity
22 of the leave. An employer that requires notice of paid
23 leave under this Act when the leave is not foreseeable
24 shall provide a written policy that contains procedures
25 for the employee to provide notice.

26 (3) Employers shall provide employees with written

1 notice of the paid leave policy notification requirements
2 in this Section in the manner provided in Section 20 for
3 notice and posting and within 5 calendar days of any
4 change to the employer's reasonable paid leave policy
5 notification requirements.

6 (4) An employer may not require, as a condition of
7 providing paid leave under this Act, that the employee
8 search for or find a replacement worker to cover the hours
9 during which the employee takes paid leave.

10 (i) Except as provided in subsection (c), paid leave under
11 this Act shall carry over annually to the extent not used by
12 the employee, provided that nothing in this Act shall be
13 construed to require an employer to provide more than 40 hours
14 of paid leave for an employee in the 12-month period unless the
15 employer agrees to do so.

16 (j) Nothing in this Section or any other Illinois law or
17 rule shall be construed as requiring financial or other
18 payment to an employee from an employer upon the employee's
19 termination, resignation, retirement, or other separation from
20 employment for paid leave accrued under this Act that has not
21 been used. Nothing in this Section or any other Illinois law or
22 rule shall be construed as requiring financial or other
23 reimbursements to an employee from an employer for unused paid
24 leave under this Act at the end of the benefit year or any
25 other time.

26 (k) If an employee is transferred to a separate division,

1 entity, or location, but remains employed by the same
2 employer, the employee is entitled to all paid leave accrued
3 at the prior division, entity, or location and is entitled to
4 use all paid leave as provided in this Section. If there is a
5 separation from employment and the employee is rehired within
6 12 months of separation by the same employer, previously
7 accrued paid leave that had not been used by the employee shall
8 be reinstated. The employee shall be entitled to use accrued
9 paid leave at the commencement of employment following a
10 separation from employment of 12 months or less.

11 (1) Paid leave under this Act shall not be charged or
12 otherwise credited to an employee's paid time off bank or
13 employee account unless the employer's policy permits such a
14 credit. If the paid leave under this Act is credited to an
15 employee's paid time off bank or employee vacation account
16 then any unused paid leave shall be paid to the employee upon
17 the employee's termination, resignation, retirement, or other
18 separation to the same extent as vacation time under existing
19 Illinois law or rule. Nothing in this Act shall be construed to
20 waive or otherwise limit an employee's right to final
21 compensation for promised and earned, but unpaid vacation time
22 or paid time off, as provided under the Illinois Wage Payment
23 and Collection Act and rules. Employers shall provide
24 employees with written notice of changes to the employer's
25 vacation time, paid time off, or other paid leave policies
26 that affect an employee's right to final compensation for such

1 leave.

2 (m) During any period an employee takes leave under this
3 Act, the employer shall maintain coverage for the employee and
4 any family member under any group health plan for the duration
5 of such leave at no less than the level and conditions of
6 coverage that would have been provided if the employee had not
7 taken the leave. The employer shall notify the employee that
8 the employee is still responsible for paying the employee's
9 share of the cost of the health care coverage, if any.

10 (n) Nothing in this Act shall be deemed to interfere with,
11 impede, or in any way diminish the right of employees to
12 bargain collectively with their employers through
13 representatives of their own choosing in order to establish
14 wages or other conditions of work in excess of the applicable
15 minimum standards established in this Act. The paid leave
16 requirements of this Act may be waived in a bona fide
17 collective bargaining agreement, but only if the waiver is set
18 forth explicitly in such agreement in clear and unambiguous
19 terms.

20 Nothing in this Act shall be deemed to affect the validity
21 or change the terms of bona fide collective bargaining
22 agreements in effect on January 1, 2024. After that date,
23 requirements of this Act may be waived in a bona fide
24 collective bargaining agreement, but only if the waiver is set
25 forth explicitly in such agreement in clear and unambiguous
26 terms.

1 In no event shall this Act apply to any employee working in
2 the construction industry who is covered by a bona fide
3 collective bargaining agreement, ~~nor shall this Act apply to~~
4 ~~any employee who is covered by a bona fide collective~~
5 ~~bargaining agreement with an employer that provides services~~
6 ~~nationally and internationally of delivery, pickup, and~~
7 ~~transportation of parcels, documents, and freight.~~

8 Notwithstanding the provisions of this subsection, nothing
9 in this Act shall be deemed to affect the validity or change
10 the terms of a bona fide collective bargaining agreement
11 applying to an employee who is employed by a State agency that
12 is in effect on July 1, 2024. After that date, requirements of
13 this Act may be waived in a bona fide collective bargaining
14 agreement, but only if the waiver is set forth explicitly in
15 such agreement in clear and unambiguous terms. As used in this
16 subsection, "State agency" has the same meaning as set forth
17 in Section 4 of the Forms Notice Act.

18 (o) An agreement by an employee to waive his or her rights
19 under this Act is void as against public policy.

20 (p) The provisions of this Act shall not apply to any
21 employer that is covered by a municipal or county ordinance
22 that is in effect on the effective date of this Act that
23 requires employers to give any form of paid leave to their
24 employees, including paid sick leave or paid leave.
25 Notwithstanding the provisions of this subsection, any
26 employer that is not required to provide paid leave to its

1 employees, including paid sick leave or paid leave, under a
2 municipal or county ordinance that is in effect on the
3 effective date of this Act shall be subject to the provisions
4 of this Act if the employer would be required to provide paid
5 leave under this Act to its employees.

6 Any local ordinance that provides paid leave, including
7 paid sick leave or paid leave, enacted or amended after the
8 effective date of this Act must comply with the requirements
9 of this Act or provide benefits, rights, and remedies that are
10 greater than or equal to the benefits, rights, and remedies
11 afforded under this Act.

12 An employer in a municipality or county that enacts or
13 amends a local ordinance that provides paid leave, including
14 paid sick leave or paid leave, after the effective date of this
15 Act shall only comply with the local ordinance or ordinances
16 so long as the benefits, rights, and remedies are greater than
17 or equal to the benefits, rights, and remedies afforded under
18 this Act.

19 (Source: P.A. 102-1143, eff. 1-1-24; revised 12-22-23.)