S T A T E O F N E W Y O R K

2560

2009-2010 Regular Sessions

I N A S S E M B L Y

January 20, 2009

Introduced by M. of A. GLICK, JOHN, EDDINGTON -- Multi-Sponsored by -- M. of A. AUBRY, COLTON, DINOWITZ, FARRELL, GOTTFRIED, HOOPER, HOYT, LIFTON, McENENY, MILLMAN, ORTIZ, PHEFFER, WEINSTEIN, WEISENBERG -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to allowing employees to utilize sick leave to care for family, household members and domestic partners

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The labor law is amended by adding a new section 19 to read as follows:

S 19. SICK LEAVE; DOMESTIC PARTNERS. 1. AS USED IN THIS SECTION: "DOMESTIC PARTNER" MEANS A PERSON WHO, WITH RESPECT TO ANOTHER PERSON:

(A) IS FORMALLY A PARTY IN A DOMESTIC PARTNERSHIP OR SIMILAR RELATIONSHIP WITH THE OTHER PERSON, ENTERED INTO PURSUANT TO THE LAWS OF THE UNITED STATES OR OF ANY STATE, LOCAL OR FOREIGN JURISDICTION, OR REGISTERED AS THE DOMESTIC PARTNER OF THE OTHER PERSON WITH ANY REGISTRY MAINTAINED BY THE EMPLOYER OF EITHER PARTY OR ANY STATE, MUNICIPALITY, OR FOREIGN JURISDICTION; OR

(B) IS DEPENDENT OR MUTUALLY INTERDEPENDENT ON THE OTHER PERSON FOR SUPPORT, AS EVIDENCED BY THE TOTALITY OF THE CIRCUMSTANCES INDICATING A MUTUAL INTENT TO BE DOMESTIC PARTNERS INCLUDING BUT NOT LIMITED TO: COMMON OWNERSHIP OR JOINT LEASING OF REAL OR PERSONAL PROPERTY; COMMON HOUSEHOLDING, SHARED INCOME OR SHARED EXPENSES; CHILDREN IN COMMON; SHARED HEALTH OR EMPLOYMENT BENEFIT COVERAGE; SIGNS OF INTENT TO MARRY OR BECOME DOMESTIC PARTNERS UNDER PARAGRAPH (A) OF THIS SUBDIVISION; OR THE LENGTH OF THE PERSONAL RELATIONSHIP OF THE PERSONS.

2. "DOMESTIC PARTNER" SHALL NOT INCLUDE ANY PERSON WHO IS RELATED BY BLOOD TO SUCH OTHER PERSON IN A MANNER THAT WOULD BAR MARRIAGE TO SUCH OTHER PERSON IN NEW YORK STATE. "DOMESTIC PARTNER" ALSO SHALL NOT INCLUDE ANY PERSON WHO IS LESS THAN EIGHTEEN YEARS OF AGE.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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3. SICK LEAVE DOES NOT INCLUDE ANY BENEFIT PROVIDED UNDER AN EMPLOYEE WELFARE BENEFIT PLAN SUBJECT TO THE FEDERAL EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 AND DOES NOT INCLUDE ANY INSURANCE BENEFIT, WORKERS' COMPENSATION BENEFIT, UNEMPLOYMENT COMPENSATION DISABILITY BENEFIT, OR BENEFIT NOT PAYABLE FROM THE EMPLOYER.

4. "EMPLOYER" MEANS A STATE AGENCY, AN OFFICE OR DEPARTMENT, A UNIT OF LOCAL GOVERNMENT, A SCHOOL DISTRICT, AN INDIVIDUAL, A PARTNERSHIP, AN ASSOCIATION, A CORPORATION OR A NONPROFIT ORGANIZATION, WHICH EMPLOYS FIFTY OR MORE EMPLOYEES IN THE STATE OF NEW YORK.

5. ANY EMPLOYEE WHO HAS BEEN GRANTED A LEAVE OF ABSENCE PURSUANT TO THE PROVISIONS OF THE FEDERAL FAMILY AND MEDICAL LEAVE ACT SHALL BE ENTITLED TO UTILIZE ANY OF SUCH EMPLOYEE'S ACCRUED AND AVAILABLE SICK LEAVE FOR SUCH LEAVE. SUCH LEAVE MAY BE TAKEN IN EITHER FULL DAY OR PARTIAL DAY INCREMENTS.

6. ANY EMPLOYEE WORKING FOR AN EMPLOYER WITH FIFTY OR MORE EMPLOYEES, WHICH PROVIDES SICK LEAVE FOR ITS EMPLOYEES, SHALL BE ENTITLED TO UTILIZE SUCH EMPLOYEE'S ACCRUED AND AVAILABLE SICK LEAVE TO PROVIDE CARE TO IMMEDIATE FAMILY, HOUSEHOLD MEMBERS OR DOMESTIC PARTNERS IN THOSE MEDICAL SITUATIONS NOT COVERED BY THE FEDERAL FAMILY AND MEDICAL LEAVE ACT. SUCH LEAVE MAY BE TAKEN IN EITHER FULL DAY OR PARTIAL DAY INCREMENTS.

7. EXCEPT AS OTHERWISE PROVIDED PURSUANT TO A VALID COLLECTIVE BARGAINING AGREEMENT, AN EMPLOYER WHO PROVIDES SICK LEAVE FOR EMPLOYEES SHALL PERMIT AN EMPLOYEE TO USE IN ANY CALENDAR YEAR, SUCH EMPLOYEE'S ACCRUED AND AVAILABLE SICK LEAVE PURSUANT TO THIS SECTION.

S 2. Nothing in this act shall be construed to impede, infringe or diminish the rights and benefits which accrue to employees through bona fide collective bargaining agreements, or otherwise diminish the integrity of existing collective bargaining agreements and other past practices.

S 3. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided however, the provisions of this act shall not supersede any collective bargaining agreement, during its term, in existence on the effective date of this act.