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

8976

I N A S S E M B L Y

March 6, 2014

Introduced by M. of A. STECK, GOTTFRIED -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to the provision of sick time earned by employees

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

Section 1. Legislative intent. The legislature finds that nearly every worker at some time during each year will need time off from work to take care of his or her health needs or the health needs of family members. Providing the right to earned sick time will therefore have a positive effect on the public health of the state and lessen the spread of and exposure to diseases. The legislature further finds that supporting a healthy workforce will foster greater employee retention and productivity, and recognizes that responsible businesses that already have policies that allow time off that amounts to at least the minimum requirements under this law, and that can be taken for the same reasons and under the same conditions as enumerated in this legislation, will not be required to provide additional sick time. Providing sick and vacation time to workers at a time when the economy is improving, and ensuring that workers' jobs are protected when they need to take a sick day, strikes the right balance and will result in a more prosperous, safe and healthy state.

S 2. The labor law is amended by adding a new article 32 to read as follows:

ARTICLE 32

NEW YORK EARNED BENEFITS ACT

SECTION 925. SHORT TITLE.
926. DEFINITIONS.
927. RIGHT TO SICK AND VACATION TIME; ACCRUAL.
928. USE OF SICK TIME.
929. CHANGING SCHEDULE.
930. COLLECTIVE BARGAINING AGREEMENTS.
931. PUBLIC DISASTERS.
932. RETALIATION AND INTERFERENCE PROHIBITED.

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

LBD13376-02-4

933. NOTICE OF RIGHTS.
934. EMPLOYER RECORDS.
935. CONFIDENTIALITY AND NONDISCLOSURE.
936. ENCOURAGEMENT OF MORE GENEROUS POLICIES; NO EFFECT ON MORE GENEROUS POLICIES.
937. OTHER LEGAL REQUIREMENTS.
938. ENFORCEMENT.

S 925. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "NEW YORK EARNED BENEFITS ACT".

S 926. DEFINITIONS. WHEN USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL BE DEFINED AS FOLLOWS:

1. "CALENDAR YEAR" SHALL MEAN A REGULAR AND CONSECUTIVE TWELVE MONTH PERIOD, AS DETERMINED BY AN EMPLOYER TO BE APPLICABLE TO THE EMPLOYER'S BUSINESS, WHICH SHALL REMAIN IN EFFECT FOR ANY EMPLOYEE DURING THAT CALENDAR YEAR.

2. "CHAIN BUSINESS" SHALL MEAN ANY EMPLOYER THAT IS PART OF A GROUP OF ESTABLISHMENTS THAT SHARE A COMMON OWNER OR PRINCIPAL WHO OWNS AT LEAST THIRTY PERCENT OF EACH ESTABLISHMENT WHERE SUCH ESTABLISHMENTS (A) ENGAGE IN THE SAME BUSINESS OR (B) OPERATE PURSUANT TO FRANCHISE AGREEMENTS WITH THE SAME FRANCHISOR AS DEFINED IN SECTION SIX HUNDRED EIGHTY-ONE OF THE GENERAL BUSINESS LAW; PROVIDED THAT THE TOTAL NUMBER OF EMPLOYEES OF ALL SUCH ESTABLISHMENTS IN SUCH GROUP IS AT LEAST FIFTEEN.

3. "CHILD" SHALL MEAN A BIOLOGICAL, ADOPTED OR FOSTER CHILD, A LEGAL WARD, OR A CHILD OF AN EMPLOYEE STANDING IN LOCO PARENTIS.

4. "DOMESTIC PARTNER" SHALL MEAN A PERSON WHO, WITH RESPECT TO ANOTHER PERSON IS (A) FORMALLY A PARTY TO 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) FORMALLY RECOGNIZED AS A BENEFICIARY OR COVERED PERSON UNDER THE OTHER PERSON'S EMPLOYMENT BENEFITS OR HEALTH INSURANCE; OR (C) 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; SIGNS OF INTENT TO MARRY OR BECOME DOMESTIC PARTNERS UNDER PARAGRAPH (A) OR (B) OF THIS SUBDIVISION; OR THE LENGTH OF THE PERSONAL RELATIONSHIP OF THE PERSONS;

5. "DOMESTIC WORKER" SHALL MEAN ANY "DOMESTIC WORKER" AS DEFINED IN SUBDIVISION SIXTEEN OF SECTION TWO OF THIS CHAPTER WHO IS EMPLOYED FOR HIRE WITHIN THE STATE OF NEW YORK FOR MORE THAN EIGHTY HOURS IN A CALENDAR YEAR WHO PERFORMS WORK ON A FULL-TIME OR PART-TIME BASIS.

6. "EMPLOYEE" SHALL MEAN ANY "EMPLOYEE" AS DEFINED IN SUBDIVISION TWO OF SECTION ONE HUNDRED NINETY OF THIS CHAPTER WHO IS EMPLOYED FOR HIRE WITHIN THE STATE FOR MORE THAN EIGHTY HOURS IN A CALENDAR YEAR WHO PERFORMS WORK ON A FULL-TIME OR PART-TIME BASIS, INCLUDING WORK PERFORMED IN A TRANSITIONAL JOBS PROGRAM PURSUANT TO SECTION THREE HUNDRED THIRTY-SIX-F OF THE SOCIAL SERVICES LAW, BUT NOT INCLUDING WORK PERFORMED AS A PARTICIPANT IN A WORK EXPERIENCE PROGRAM PURSUANT TO SECTION THREE HUNDRED THIRTY-SIX-C OF THE SOCIAL SERVICES LAW, AND NOT INCLUDING THOSE WHO ARE EMPLOYED BY (A) THE UNITED STATES GOVERNMENT; (B) THE STATE OF NEW YORK, INCLUDING ANY OFFICE, DEPARTMENT, INDEPENDENT AGENCY, AUTHORITY, INSTITUTION, ASSOCIATION, SOCIETY OR OTHER BODY OF

THE STATE INCLUDING THE LEGISLATURE AND THE JUDICIARY; OR (C) THE CITY OF NEW YORK OR ANY LOCAL GOVERNMENT, MUNICIPALITY OR COUNTY OR ANY ENTITY GOVERNED BY SECTION NINETY-TWO OF THE GENERAL MUNICIPAL LAW OR SECTION TWO HUNDRED SEVEN OF THE COUNTY LAW.

7. "EMPLOYER" SHALL MEAN ANY "EMPLOYER" AS DEFINED IN SUBDIVISION THREE OF SECTION ONE HUNDRED NINETY OF THIS CHAPTER, BUT NOT INCLUDING (A) THE UNITED STATES GOVERNMENT; (B) THE STATE OF NEW YORK, INCLUDING ANY OFFICE, DEPARTMENT, INDEPENDENT AGENCY, AUTHORITY, INSTITUTION, ASSOCIATION, SOCIETY OR OTHER BODY OF THE STATE INCLUDING THE LEGISLATURE AND THE JUDICIARY; OR (C) THE CITY OF NEW YORK OR ANY LOCAL GOVERNMENT, MUNICIPALITY OR COUNTY OR ANY ENTITY GOVERNED BY SECTION NINETY-TWO OF THE GENERAL MUNICIPAL LAW OR SECTION TWO HUNDRED SEVEN OF THE COUNTY LAW. IN DETERMINING THE NUMBER OF EMPLOYEES PERFORMING WORK FOR AN EMPLOYER FOR COMPENSATION DURING A GIVEN WEEK, ALL EMPLOYEES PERFORMING WORK FOR COMPENSATION ON A FULL-TIME, PART-TIME OR TEMPORARY BASIS SHALL BE COUNTED, PROVIDED THAT WHERE THE NUMBER OF EMPLOYEES WHO WORK FOR AN EMPLOYER FOR COMPENSATION PER WEEK FLUCTUATES, BUSINESS SIZE MAY BE DETERMINED FOR THE CURRENT CALENDAR YEAR BASED UPON THE AVERAGE NUMBER OF EMPLOYEES WHO WORKED FOR COMPENSATION PER WEEK DURING THE PRECEDING CALENDAR YEAR, PROVIDED FURTHER THAT IN DETERMINING THE NUMBER OF EMPLOYEES PERFORMING WORK FOR AN EMPLOYER THAT IS A CHAIN BUSINESS, THE TOTAL NUMBER OF EMPLOYEES IN THAT GROUP OF ESTABLISHMENTS SHALL BE COUNTED.

8. "FAMILY MEMBER" SHALL MEAN AN EMPLOYEE'S CHILD, SPOUSE, DOMESTIC PARTNER OR PARENT, OR THE CHILD OR PARENT OF AN EMPLOYEE'S SPOUSE OR DOMESTIC PARTNER.

9. "HEALTH CARE PROVIDER" SHALL MEAN ANY PERSON LICENSED UNDER FEDERAL OR NEW YORK STATE LAW TO PROVIDE MEDICAL OR EMERGENCY SERVICES, INCLUDING, BUT NOT LIMITED TO, DOCTORS, NURSES AND EMERGENCY ROOM PERSONNEL.

10. "HOURLY PROFESSIONAL EMPLOYEE" SHALL MEAN ANY INDIVIDUAL (A) WHO IS PROFESSIONALLY LICENSED BY THE NEW YORK STATE EDUCATION DEPARTMENT, OFFICE OF THE PROFESSIONS, UNDER THE DIRECTION OF THE NEW YORK STATE BOARD OF REGENTS UNDER SECTIONS SIX THOUSAND SEVEN HUNDRED THIRTY-TWO, SEVEN THOUSAND NINE HUNDRED TWO OR EIGHT THOUSAND TWO HUNDRED TWO OF THE EDUCATION LAW, (B) WHO CALLS IN FOR WORK ASSIGNMENTS AT WILL DETERMINING HIS OR HER OWN WORK SCHEDULE WITH THE ABILITY TO REJECT OR ACCEPT ANY ASSIGNMENT REFERRED TO THEM AND (C) WHO IS PAID AN AVERAGE HOURLY WAGE WHICH IS AT LEAST FOUR TIMES THE FEDERAL MINIMUM WAGE FOR HOURS WORKED DURING THE CALENDAR YEAR.

11. "PAID SICK TIME" SHALL MEAN TIME THAT IS PROVIDED BY AN EMPLOYER TO AN EMPLOYEE THAT CAN BE USED FOR THE PURPOSES DESCRIBED IN SECTION NINE HUNDRED TWENTY-EIGHT OF THIS ARTICLE AND IS COMPENSATED AT THE SAME RATE AS THE EMPLOYEE EARNS FROM HIS OR HER EMPLOYMENT AT THE TIME THE EMPLOYEE USES SUCH TIME, EXCEPT THAT AN EMPLOYEE WHO VOLUNTEERS OR AGREES TO WORK HOURS IN ADDITION TO HIS OR HER NORMAL SCHEDULE WILL NOT RECEIVE MORE PAID SICK TIME COMPENSATION THAN HIS OR HER REGULAR HOURLY WAGE IF SUCH EMPLOYEE IS NOT ABLE TO WORK THE HOURS FOR WHICH HE OR SHE HAS VOLUNTEERED OR AGREED EVEN IF THE REASON FOR SUCH INABILITY TO WORK IS ONE OF THE REASONS IN SECTION NINE HUNDRED TWENTY-EIGHT OF THIS ARTICLE. IN NO CASE SHALL AN EMPLOYER BE REQUIRED TO PAY MORE TO AN EMPLOYEE FOR PAID SICK TIME THAN THE EMPLOYEE'S REGULAR RATE OF PAY AT THE TIME THE EMPLOYEE USES SUCH PAID SICK TIME, EXCEPT THAT IN NO CASE SHALL THE PAID SICK TIME HOURLY RATE BE LESS THAN THE HOURLY RATE PROVIDED IN SUBDIVISION ONE OF SECTION SIX HUNDRED FIFTY-TWO OF THIS CHAPTER.

12. "PARENT" SHALL MEAN A BIOLOGICAL, FOSTER, STEP- OR ADOPTIVE PARENT, OR A LEGAL GUARDIAN OF AN EMPLOYEE, OR A PERSON WHO STOOD IN LOCO PARENTIS WHEN THE EMPLOYEE WAS A MINOR CHILD.

13. "PUBLIC DISASTER" SHALL MEAN AN EVENT SUCH AS FIRE, EXPLOSION, TERRORIST ATTACK, SEVERE WEATHER CONDITIONS OR OTHER CATASTROPHE THAT IS DECLARED A PUBLIC EMERGENCY OR DISASTER BY THE PRESIDENT OF THE UNITED STATES OR THE GOVERNOR OF NEW YORK.

14. "PUBLIC HEALTH EMERGENCY" SHALL MEAN A DECLARATION MADE BY THE COMMISSIONER OF HEALTH PURSUANT TO SECTION TWO HUNDRED SIX OF THE PUBLIC HEALTH LAW.

15. "PUBLIC SERVICE COMMISSION" SHALL MEAN THE PUBLIC SERVICE COMMISSION ESTABLISHED BY SECTION FOUR OF THE PUBLIC SERVICE LAW.

16. "RETALIATION" SHALL MEAN ANY THREAT, DISCIPLINE, DISCHARGE, DEMOTION, SUSPENSION, REDUCTION IN EMPLOYEE HOURS, OR ANY OTHER ADVERSE EMPLOYMENT ACTION AGAINST ANY EMPLOYEE FOR EXERCISING OR ATTEMPTING TO EXERCISE ANY RIGHT GUARANTEED BY THIS ARTICLE.

17. "SICK TIME" SHALL MEAN TIME THAT IS PROVIDED BY AN EMPLOYER TO AN EMPLOYEE THAT CAN BE USED FOR THE PURPOSES DESCRIBED IN SECTION NINE HUNDRED TWENTY-EIGHT OF THIS ARTICLE, WHETHER OR NOT COMPENSATION FOR THAT TIME IS REQUIRED PURSUANT TO THIS ARTICLE.

18. "SPOUSE" SHALL MEAN A PERSON TO WHOM AN EMPLOYEE IS LEGALLY MARRIED UNDER THE LAWS OF THE STATE OF NEW YORK.

S 927. RIGHT TO SICK AND VACATION TIME; ACCRUAL. 1. ALL EMPLOYEES HAVE THE RIGHT TO SICK AND VACATION TIME PURSUANT TO THIS ARTICLE.

(A) ALL EMPLOYERS THAT EMPLOY FIFTEEN OR MORE EMPLOYEES AND ALL EMPLOYERS OF ONE OR MORE DOMESTIC WORKERS SHALL PROVIDE PAID SICK TIME AND VACATION TIME TO THEIR EMPLOYEES IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE.

(B) ALL EMPLOYEES NOT ENTITLED TO PAID SICK TIME PURSUANT TO THIS ARTICLE SHALL BE ENTITLED TO UNPAID SICK TIME IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE.

2. ALL EMPLOYERS SHALL PROVIDE A MINIMUM OF ONE HOUR OF SICK TIME FOR EVERY THIRTY HOURS WORKED BY AN EMPLOYEE, OTHER THAN A DOMESTIC WORKER WHO SHALL ACCRUE SICK TIME PURSUANT TO PARAGRAPH (B) OF SUBDIVISION ONE OF THIS SECTION. EMPLOYERS SHALL NOT BE REQUIRED UNDER THIS ARTICLE TO PROVIDE MORE THAN FORTY HOURS OF SICK TIME FOR AN EMPLOYEE IN A CALENDAR YEAR. FOR PURPOSES OF THIS SUBDIVISION, ANY PAID DAYS OF REST TO WHICH A DOMESTIC WORKER IS ENTITLED PURSUANT TO SUBDIVISION ONE OF SECTION ONE HUNDRED SIXTY-ONE OF THIS CHAPTER SHALL COUNT TOWARD SUCH FORTY HOURS. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO DISCOURAGE OR PROHIBIT AN EMPLOYER FROM ALLOWING THE ACCRUAL OF SICK TIME AT A FASTER RATE OR USE OF SICK TIME AT AN EARLIER DATE THAN THIS ARTICLE REQUIRES.

3. AN EMPLOYER REQUIRED TO PROVIDE PAID SICK AND VACATION TIME PURSUANT TO THIS ARTICLE WHO PROVIDES AN EMPLOYEE WITH AN AMOUNT OF PAID LEAVE, INCLUDING PAID TIME OFF, PAID VACATION, PAID PERSONAL DAYS OR PAID DAYS OF REST REQUIRED TO BE COMPENSATED PURSUANT TO SUBDIVISION ONE OF SECTION ONE HUNDRED SIXTY-ONE OF THIS CHAPTER, SUFFICIENT TO MEET THE REQUIREMENTS OF THIS SECTION AND WHO ALLOWS SUCH PAID LEAVE TO BE USED FOR THE SAME PURPOSES AND UNDER THE SAME CONDITIONS AS SICK TIME REQUIRED PURSUANT TO THIS ARTICLE, IS NOT REQUIRED TO PROVIDE ADDITIONAL PAID SICK TIME FOR SUCH EMPLOYEE WHETHER OR NOT SUCH EMPLOYEE CHOOSES TO USE SUCH LEAVE FOR THE PURPOSES INCLUDED IN SUBDIVISION ONE OF SECTION NINE HUNDRED TWENTY-EIGHT OF THIS ARTICLE. AN EMPLOYER REQUIRED TO PROVIDE UNPAID SICK TIME PURSUANT TO THIS ARTICLE WHO PROVIDES AN EMPLOYEE WITH AN AMOUNT OF UNPAID OR PAID LEAVE, INCLUDING UNPAID OR PAID TIME OFF, UNPAID OR PAID VACATION, OR UNPAID OR PAID PERSONAL DAYS,

SUFFICIENT TO MEET THE REQUIREMENTS OF THIS SECTION WHO ALLOWS SUCH LEAVE TO BE USED FOR THE SAME PURPOSES AND UNDER THE SAME CONDITIONS AS SICK TIME REQUIRED PURSUANT TO THIS ARTICLE, IS NOT REQUIRED TO PROVIDE ADDITIONAL UNPAID SICK TIME FOR SUCH EMPLOYEE WHETHER OR NOT SUCH EMPLOYEE CHOOSES TO USE SUCH LEAVE FOR THE PURPOSES SET FORTH IN SUBDIVISION ONE OF SECTION NINE HUNDRED TWENTY-EIGHT OF THIS ARTICLE.

4. (A) FOR AN EMPLOYEE OTHER THAN A DOMESTIC WORKER, SICK TIME AS PROVIDED PURSUANT TO THIS ARTICLE SHALL BEGIN TO ACCRUE AT THE COMMENCEMENT OF EMPLOYMENT OR ON THE EFFECTIVE DATE OF THIS ACT, WHICHEVER IS LATER, AND AN EMPLOYEE SHALL BE ENTITLED TO BEGIN USING SICK TIME ON THE ONE HUNDRED TWENTIETH CALENDAR DAY FOLLOWING COMMENCEMENT OF HIS OR HER EMPLOYMENT OR ON THE ONE HUNDRED TWENTIETH CALENDAR DAY FOLLOWING THE EFFECTIVE DATE OF THIS ARTICLE, WHICHEVER IS LATER. AFTER THE ONE HUNDRED TWENTIETH CALENDAR DAY OF EMPLOYMENT OR AFTER THE ONE HUNDRED TWENTIETH CALENDAR DAY FOLLOWING THE EFFECTIVE DATE OF THIS ARTICLE, WHICHEVER IS LATER, SUCH EMPLOYEE MAY USE SICK TIME AS IT IS ACCRUED.

(B) IN ADDITION TO THE PAID DAY OR DAYS OF REST TO WHICH A DOMESTIC WORKER IS ENTITLED PURSUANT TO SUBDIVISION ONE OF SECTION ONE HUNDRED SIXTY-ONE OF THIS CHAPTER, SUCH DOMESTIC WORKER SHALL BE ENTITLED TO TWO DAYS OF PAID SICK TIME AS OF THE DATE THAT SUCH DOMESTIC WORKER IS ENTITLED TO SUCH PAID DAY OR DAYS OF REST AND ANNUALLY THEREAFTER, PROVIDED THAT NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE TO THE CONTRARY, SUCH TWO DAYS OF PAID SICK TIME SHALL BE CALCULATED IN THE SAME MANNER AS THE PAID DAY OR DAYS OF REST ARE CALCULATED PURSUANT TO THE PROVISIONS OF SUBDIVISION ONE OF SECTION ONE HUNDRED SIXTY-ONE OF THIS CHAPTER.

5. EMPLOYEES WHO ARE NOT COVERED BY THE OVERTIME REQUIREMENTS OF NEW YORK STATE LAW OR REGULATIONS, INCLUDING WAGE ORDERS PROMULGATED BY THE COMMISSIONER PURSUANT TO ARTICLE NINETEEN AND NINETEEN-A OF THIS CHAPTER, SHALL BE ASSUMED TO WORK FORTY HOURS IN EACH WORK WEEK FOR PURPOSES OF SICK TIME ACCRUAL UNLESS THEIR REGULAR WORK WEEK IS LESS THAN FORTY HOURS, IN WHICH CASE SICK TIME ACCRUES BASED UPON THAT REGULAR WORK WEEK.

6. THE PROVISIONS OF THIS ARTICLE APPLY TO (A) WORK STUDY PROGRAMS UNDER FORTY-TWO U.S.C. SECTION TWO THOUSAND SEVEN HUNDRED FIFTY-THREE; (B) EMPLOYEES FOR THE HOURS WORKED AND COMPENSATED BY OR THROUGH QUALIFIED SCHOLARSHIPS AS DEFINED IN TWENTY-SIX U.S.C. SECTION ONE HUNDRED SEVENTEEN; (C) INDEPENDENT CONTRACTORS WHO DO NOT MEET THE DEFINITION OF EMPLOYEE UNDER SUBDIVISION TWO OF SECTION ONE HUNDRED NINETY OF THIS CHAPTER; AND (D) HOURLY PROFESSIONAL EMPLOYEES.

7. EMPLOYEES SHALL DETERMINE HOW MUCH EARNED SICK TIME THEY NEED TO USE, PROVIDED THAT EMPLOYERS MAY SET A REASONABLE MINIMUM INCREMENT FOR THE USE OF SICK TIME NOT TO EXCEED FOUR HOURS PER DAY.

8. EXCEPT FOR DOMESTIC WORKERS, UNUSED SICK TIME AS PROVIDED PURSUANT TO THIS ARTICLE SHALL BE CARRIED OVER TO THE FOLLOWING CALENDAR YEAR; PROVIDED THAT NO EMPLOYER SHALL BE REQUIRED TO (A) ALLOW THE USE OF MORE THAN FORTY HOURS OF SICK TIME IN A CALENDAR YEAR OR (B) CARRY OVER UNUSED PAID SICK TIME IF THE EMPLOYEE IS PAID FOR ANY UNUSED SICK TIME AT THE END OF THE CALENDAR YEAR IN WHICH SUCH TIME IS ACCRUED AND THE EMPLOYER PROVIDED THE EMPLOYEE WITH AN AMOUNT OF PAID SICK TIME THAT MEETS OR EXCEEDS THE REQUIREMENTS OF THIS ARTICLE FOR SUCH EMPLOYEE FOR THE IMMEDIATELY SUBSEQUENT CALENDAR YEAR ON THE FIRST DAY OF THE IMMEDIATELY SUBSEQUENT CALENDAR YEAR.

9. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS REQUIRING OR PROHIBITING FINANCIAL OR OTHER REIMBURSEMENT TO AN EMPLOYEE FROM AN EMPLOYER UPON THE EMPLOYEE'S TERMINATION, RESIGNATION, RETIREMENT, OR OTHER SEPARATION FROM EMPLOYMENT FOR ACCRUED SICK TIME THAT HAS NOT BEEN USED.

10. IF AN EMPLOYEE IS TRANSFERRED TO A SEPARATE DIVISION, ENTITY OR LOCATION IN THE STATE OF NEW YORK, BUT REMAINS EMPLOYED BY THE SAME EMPLOYER, SUCH EMPLOYEE IS ENTITLED TO ALL SICK TIME ACCRUED AT THE PRIOR DIVISION, ENTITY OR LOCATION AND IS ENTITLED TO RETAIN OR USE ALL SICK TIME AS PROVIDED PURSUANT TO THE PROVISIONS OF THIS ARTICLE. WHEN THERE IS A SEPARATION FROM EMPLOYMENT AND THE EMPLOYEE IS REHIRED WITHIN SIX MONTHS OF SEPARATION BY THE SAME EMPLOYER, PREVIOUSLY ACCRUED SICK TIME THAT WAS NOT USED SHALL BE REINSTATED AND SUCH EMPLOYEE SHALL BE ENTITLED TO USE SUCH ACCRUED SICK TIME AT ANY TIME AFTER SUCH EMPLOYEE IS REHIRED, PROVIDED THAT NO EMPLOYER SHALL BE REQUIRED TO REINSTATE SUCH SICK TIME TO THE EXTENT THE EMPLOYEE WAS PAID FOR UNUSED ACCRUED SICK TIME PRIOR TO SEPARATION AND THE EMPLOYEE AGREED TO ACCEPT SUCH PAY FOR SUCH UNUSED SICK TIME.

S 928. USE OF SICK TIME. 1. AN EMPLOYEE SHALL BE ENTITLED TO USE SICK TIME FOR ABSENCE FROM WORK DUE TO (A) SUCH EMPLOYEE'S MENTAL OR PHYSICAL ILLNESS, INJURY OR HEALTH CONDITION OR NEED FOR MEDICAL DIAGNOSIS, CARE OR TREATMENT OF A MENTAL OR PHYSICAL ILLNESS, INJURY OR HEALTH CONDITION OR NEED FOR PREVENTIVE MEDICAL CARE; OR (B) CARE OF A FAMILY MEMBER WHO NEEDS MEDICAL DIAGNOSIS, CARE OR TREATMENT OF A MENTAL OR PHYSICAL ILLNESS, INJURY OR HEALTH CONDITION OR WHO NEEDS PREVENTIVE MEDICAL CARE; OR (C) CLOSURE OF SUCH EMPLOYEE'S PLACE OF BUSINESS BY ORDER OF A PUBLIC OFFICIAL DUE TO A PUBLIC HEALTH EMERGENCY OR SUCH EMPLOYEE'S NEED TO CARE FOR A CHILD WHOSE SCHOOL OR CHILDCARE PROVIDER HAS BEEN CLOSED BY ORDER OF A PUBLIC OFFICIAL DUE TO A PUBLIC HEALTH EMERGENCY.

2. AN EMPLOYER MAY REQUIRE REASONABLE NOTICE OF THE NEED TO USE SICK TIME. WHERE SUCH NEED IS FORESEEABLE, AN EMPLOYER MAY REQUIRE REASONABLE NOTICE OF THE INTENTION TO USE SUCH SICK TIME, NOT TO EXCEED SEVEN DAYS PRIOR TO THE DATE SUCH SICK TIME IS TO BEGIN. WHERE SUCH NEED IS NOT FORESEEABLE, AN EMPLOYER MAY REQUIRE AN EMPLOYEE TO PROVIDE NOTICE OF THE NEED FOR THE USE OF SICK TIME AS SOON AS PRACTICABLE.

3. FOR AN ABSENCE OF MORE THAN THREE CONSECUTIVE WORK DAYS, AN EMPLOYER MAY REQUIRE REASONABLE DOCUMENTATION THAT THE USE OF SICK TIME WAS AUTHORIZED BY SUBDIVISION ONE OF THIS SECTION. FOR SICK TIME USED PURSUANT TO PARAGRAPHS (A) AND (B) OF SUBDIVISION ONE OF THIS SECTION, DOCUMENTATION SIGNED BY A LICENSED HEALTH CARE PROVIDER INDICATING THE NEED FOR THE AMOUNT OF SICK TIME TAKEN SHALL BE CONSIDERED REASONABLE DOCUMENTATION AND AN EMPLOYER SHALL NOT REQUIRE THAT SUCH DOCUMENTATION SPECIFY THE NATURE OF THE EMPLOYEE'S OR THE EMPLOYEE'S FAMILY MEMBER'S INJURY, ILLNESS OR CONDITION, EXCEPT AS REQUIRED BY LAW.

4. NOTHING HEREIN SHALL PREVENT AN EMPLOYER FROM REQUIRING AN EMPLOYEE TO PROVIDE WRITTEN CONFIRMATION THAT AN EMPLOYEE USED SICK TIME PURSUANT TO THIS SECTION.

5. AN EMPLOYER SHALL NOT REQUIRE AN EMPLOYEE, AS A CONDITION OF TAKING SICK TIME, TO SEARCH FOR OR FIND A REPLACEMENT WORKER TO COVER HOURS DURING WHICH SUCH EMPLOYEE IS UTILIZING SICK TIME.

6. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO PROHIBIT AN EMPLOYER FROM TAKING DISCIPLINARY ACTION, UP TO AND INCLUDING TERMINATION, AGAINST A WORKER WHO USES SICK TIME PROVIDED PURSUANT TO THIS ARTICLE FOR PURPOSES OTHER THAN THOSE DESCRIBED IN THIS SECTION.

S 929. CHANGING SCHEDULE. UPON MUTUAL CONSENT OF THE EMPLOYEE AND EMPLOYER, AN EMPLOYEE WHO IS ABSENT FOR A REASON LISTED IN SUBDIVISION ONE OF SECTION NINE HUNDRED TWENTY-EIGHT OF THIS ARTICLE MAY WORK ADDITIONAL HOURS DURING THE IMMEDIATELY PRECEDING SEVEN DAYS IF THE ABSENCE WAS FORESEEABLE OR WITHIN THE IMMEDIATELY SUBSEQUENT SEVEN DAYS FROM THAT ABSENCE WITHOUT USING SICK TIME TO MAKE UP FOR THE ORIGINAL HOURS FOR WHICH SUCH EMPLOYEE WAS ABSENT, PROVIDED THAT AN ADJUNCT PROFESSOR

WHO IS AN EMPLOYEE AT AN INSTITUTE OF HIGHER EDUCATION MAY WORK SUCH ADDITIONAL HOURS AT ANY TIME DURING THE ACADEMIC TERM. AN EMPLOYER SHALL NOT REQUIRE SUCH EMPLOYEE TO WORK ADDITIONAL HOURS TO MAKE UP FOR THE ORIGINAL HOURS FOR WHICH SUCH EMPLOYEE WAS ABSENT TO SEARCH FOR OR FIND A REPLACEMENT EMPLOYEE TO COVER THE HOURS DURING WHICH THE EMPLOYEE IS ABSENT PURSUANT TO THIS SECTION. IF SUCH EMPLOYEE WAS ORIGINALLY SCHEDULED TO WORK, THEN SUCH EMPLOYEE SHALL BE ABLE TO USE SICK TIME PROVIDED PURSUANT TO THIS ARTICLE FOR THE DIFFERENCE. SHOULD THE EMPLOYEE WORK ADDITIONAL HOURS, THE EMPLOYER SHALL COMPLY WITH ALL APPLICABLE FEDERAL, STATE OR LOCAL LABOR LAWS.

S 930. COLLECTIVE BARGAINING AGREEMENTS. 1. THE PROVISIONS OF THIS ARTICLE SHALL NOT APPLY TO ANY EMPLOYEE COVERED BY A VALID COLLECTIVE BARGAINING AGREEMENT IF (A) SUCH PROVISIONS ARE EXPRESSLY WAIVED IN SUCH COLLECTIVE BARGAINING AGREEMENT AND (B) SUCH AGREEMENT PROVIDES FOR A COMPARABLE BENEFIT FOR THE EMPLOYEES COVERED BY SUCH AGREEMENT IN THE FORM OF PAID DAYS OFF; SUCH PAID DAYS OFF SHALL BE IN THE FORM OF LEAVE, COMPENSATION, OTHER EMPLOYEE BENEFITS, OR SOME COMBINATION THEREOF. COMPARABLE BENEFITS SHALL INCLUDE, BUT ARE NOT LIMITED TO, VACATION TIME, PERSONAL TIME, SICK TIME, AND HOLIDAY AND SUNDAY TIME PAY AT PREMIUM RATES.

2. NOTWITHSTANDING SUBDIVISION ONE OF THIS SECTION, THE PROVISIONS OF THIS ARTICLE SHALL NOT APPLY TO AN EMPLOYEE IN THE CONSTRUCTION OR GROCERY INDUSTRY COVERED BY A VALID COLLECTIVE BARGAINING AGREEMENT IF SUCH PROVISIONS ARE EXPRESSLY WAIVED IN SUCH COLLECTIVE BARGAINING AGREEMENT.

S 931. PUBLIC DISASTERS. IN THE EVENT OF A PUBLIC DISASTER, THE GOVERNOR MAY, FOR THE LENGTH OF SUCH DISASTER, SUSPEND THE PROVISIONS OF THIS ARTICLE FOR BUSINESSES, CORPORATIONS OR OTHER ENTITIES REGULATED BY THE PUBLIC SERVICE COMMISSION.

S 932. RETALIATION AND INTERFERENCE PROHIBITED. NO EMPLOYER SHALL ENGAGE IN RETALIATION OR THREATEN RETALIATION AGAINST AN EMPLOYEE FOR EXERCISING OR ATTEMPTING TO EXERCISE ANY RIGHT PROVIDED PURSUANT TO THIS ARTICLE, OR INTERFERE WITH ANY INVESTIGATION, PROCEEDING OR HEARING PURSUANT TO THIS ARTICLE. THE PROTECTION OF THIS ARTICLE SHALL APPLY TO ANY PERSON WHO MISTAKENLY BUT IN GOOD FAITH ALLEGES A VIOLATION OF THIS ARTICLE. RIGHTS UNDER THIS ARTICLE SHALL INCLUDE, BUT NOT BE LIMITED TO, THE RIGHT TO REQUEST AND USE SICK TIME, FILE A COMPLAINT FOR ALLEGED VIOLATIONS OF THIS ARTICLE, PARTICIPATE IN ANY ADMINISTRATIVE OR JUDICIAL ACTION REGARDING AN ALLEGED VIOLATION OF THIS ARTICLE, OR INFORM ANY PERSON OF HIS OR HER POTENTIAL RIGHTS UNDER THIS ARTICLE.

S 933. NOTICE OF RIGHTS. 1. AN EMPLOYER SHALL PROVIDE AN EMPLOYEE AT THE COMMENCEMENT OF EMPLOYMENT WITH WRITTEN NOTICE OF SUCH EMPLOYEE'S RIGHT TO SICK TIME PURSUANT TO THIS ARTICLE, INCLUDING THE ACCRUAL AND USE OF SICK TIME, THE CALENDAR YEAR OF THE EMPLOYER, AND THE RIGHT TO BE FREE FROM RETALIATION AND TO BRING A COMPLAINT TO THE DEPARTMENT. SUCH NOTICE SHALL BE IN ENGLISH AND THE PRIMARY LANGUAGE SPOKEN BY THE EMPLOYEE, PROVIDED THAT THE DEPARTMENT HAS MADE AVAILABLE A TRANSLATION OF SUCH NOTICE IN SUCH LANGUAGE PURSUANT TO SUBDIVISION TWO OF THIS SECTION. SUCH NOTICE MAY ALSO BE CONSPICUOUSLY POSTED AT AN EMPLOYER'S PLACE OF BUSINESS IN AN AREA ACCESSIBLE TO EMPLOYEES.

2. THE DEPARTMENT SHALL CREATE AND MAKE AVAILABLE NOTICES THAT CONTAIN THE INFORMATION REQUIRED PURSUANT TO SUBDIVISION ONE OF THIS SECTION AND SUCH NOTICES SHALL ALLOW FOR THE EMPLOYER TO FILL IN APPLICABLE DATES FOR SUCH EMPLOYER'S CALENDAR YEAR. SUCH NOTICES SHALL BE POSTED IN A DOWNLOADABLE FORMAT ON THE DEPARTMENT'S WEBSITE IN CHINESE, ENGLISH,

FRENCH-CREOLE, ITALIAN, KOREAN, RUSSIAN, SPANISH AND ANY OTHER LANGUAGE DEEMED APPROPRIATE BY THE DEPARTMENT.

3. ANY PERSON OR ENTITY THAT WILLFULLY VIOLATES THE NOTICE REQUIREMENTS OF THIS SECTION SHALL BE SUBJECT TO A CIVIL FINE IN AN AMOUNT NOT TO EXCEED FIFTY DOLLARS FOR EACH EMPLOYEE WHO WAS NOT GIVEN APPROPRIATE NOTICE PURSUANT TO THIS SECTION.

S 934. EMPLOYER RECORDS. EMPLOYERS SHALL RETAIN RECORDS DOCUMENTING SUCH EMPLOYER'S COMPLIANCE WITH THE REQUIREMENTS OF THIS ARTICLE FOR A PERIOD OF TWO YEARS UNLESS OTHERWISE REQUIRED PURSUANT TO ANY OTHER LAW, RULE OR REGULATION, AND SHALL ALLOW THE DEPARTMENT TO ACCESS SUCH RECORDS, WITH AN APPROPRIATE NOTICE AND AT A MUTUALLY AGREEABLE TIME, IN FURTHERANCE OF AN INVESTIGATION CONDUCTED PURSUANT TO THIS ARTICLE. THE DEPARTMENT SHALL PROVIDE COMPUTER SOFTWARE PERMITTING THE TRACKING OF SICK AND VACATION TIME IN COMPLIANCE WITH THIS ARTICLE TO ANY EMPLOYER WHO REQUESTS SUCH SOFTWARE.

S 935. CONFIDENTIALITY AND NONDISCLOSURE. NO PERSON OR ENTITY MAY REQUIRE THE DISCLOSURE OF DETAILS RELATING TO AN EMPLOYEE'S OR HIS OR HER FAMILY MEMBER'S MEDICAL CONDITION AS A CONDITION OF PROVIDING SICK TIME UNDER THIS ARTICLE. HEALTH INFORMATION ABOUT AN EMPLOYEE OR AN EMPLOYEE'S FAMILY MEMBER OBTAINED SOLELY FOR THE PURPOSES OF UTILIZING SICK TIME PURSUANT TO THIS ARTICLE SHALL BE TREATED AS CONFIDENTIAL AND SHALL NOT BE DISCLOSED EXCEPT BY THE AFFECTED EMPLOYEE, WITH THE PERMISSION OF THE AFFECTED EMPLOYEE OR AS REQUIRED BY LAW.

S 936. ENCOURAGEMENT OF MORE GENEROUS POLICIES; NO EFFECT ON MORE GENEROUS POLICIES. 1. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO DISCOURAGE OR PROHIBIT THE ADOPTION OR RETENTION OF A SICK TIME POLICY MORE GENEROUS THAN THAT WHICH IS REQUIRED HEREIN.

2. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS DIMINISHING THE OBLIGATION OF AN EMPLOYER TO COMPLY WITH ANY CONTRACT, COLLECTIVE BARGAINING AGREEMENT, EMPLOYMENT BENEFIT PLAN OR OTHER AGREEMENT PROVIDING MORE GENEROUS SICK TIME TO AN EMPLOYEE THAN REQUIRED HEREIN.

3. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS DIMINISHING THE RIGHTS OF PUBLIC EMPLOYEES REGARDING SICK TIME AS PROVIDED PURSUANT TO FEDERAL OR STATE LAW.

S 937. OTHER LEGAL REQUIREMENTS. 1. THIS ARTICLE PROVIDES MINIMUM REQUIREMENTS PERTAINING TO SICK TIME AND SHALL NOT BE CONSTRUED TO PREEMPT, LIMIT OR OTHERWISE AFFECT THE APPLICABILITY OF ANY OTHER LAW, REGULATION, RULE, REQUIREMENT, POLICY OR STANDARD THAT PROVIDES FOR GREATER ACCRUAL OR USE BY EMPLOYEES OF SICK LEAVE TIME, WHETHER PAID OR UNPAID, OR THAT EXTENDS OTHER PROTECTIONS TO EMPLOYEES.

2. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS CREATING OR IMPOSING ANY REQUIREMENT IN CONFLICT WITH ANY FEDERAL OR STATE LAW, RULE OR REGULATION, NOR SHALL ANYTHING IN THIS ARTICLE BE CONSTRUED TO DIMINISH OR IMPAIR THE RIGHTS OF AN EMPLOYEE OR EMPLOYER UNDER ANY VALID COLLECTIVE BARGAINING AGREEMENT.

S 938. ENFORCEMENT. IN ANY ACTION TO RECOVER THE PAYMENT OF THE CASH VALUE OF UNPAID BENEFITS OR FOR INJUNCTIVE RELIEF TO COMPEL SUCH BENEFITS TO WHICH AN EMPLOYEE IS ENTITLED UNDER THIS SECTION, THE PREVAILING PLAINTIFF SHALL BE ENTITLED TO ALL COSTS, DISBURSEMENTS, AND REASONABLE ATTORNEY'S FEES INCURRED IN THE PROSECUTION OF SUCH ACTION. SUCH ACTION MAY BE BROUGHT IN THE SUPREME COURT OF THE COUNTY IN WHICH THE EMPLOYEE RESIDES OR WHERE THE EMPLOYER DOES BUSINESS.

S 3. Effect of invalidity; severability. If any section, subdivision, paragraph, sentence, clause, phrase or other portion of this act is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed

severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this act, which remaining portions shall continue in full force and effect.

S 4. This act shall take effect immediately, pursuant to the following compliance schedule:

1. (a) all employers that employ twenty or more employees shall comply with the provisions of this act on or before April 1, 2015;

(b) all employers that employ fifteen to nineteen employees or a domestic worker must comply with the provisions of this act regarding paid sick time on or before October 1, 2016;

(c) all employers with employees not entitled to paid sick time pursuant to this act shall comply with the provisions of this act on or before April 1, 2015.

2. Notwithstanding subdivision one of this section, in the case of employees covered by a valid collective bargaining agreement in effect on the effective date prescribed by subdivision one of this section, this act shall take effect on the date of the termination of such agreement.

3. The commissioner of labor shall take such measures as are necessary for its implementation, including the promulgation of rules, prior to such effective date.