STATE OF NEW YORK

4435

2021-2022 Regular Sessions

IN ASSEMBLY

February 4, 2021

Introduced by M. of A. O'DONNELL -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to allowing leave of absence to employees for HIV testing

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 202-n to read as follows:

§ 202-n. Leave of absence for HIV testing granted to employees. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) "Employee" means a person who performs services for hire for an employer, for an average of twenty or more hours per week, and includes all individuals employed at any site owned or operated by an employer but shall not include an independent contractor.

(b) "Employer" means a person or entity that employs twenty or more employees at at least one site and includes an individual, corporation, partnership, association, nonprofit organization, group of persons, state, county, town, city, school district, public authority or other governmental subdivision of any kind.

2. An employer shall either, at its option: (a) grant three hours of leave of absence in any twelve month period to an employee who seeks HIV testing; provided that the leave of absence may not exceed three hours, unless otherwise agreed to by the employer, and must comply with the requirements established by the commissioner under subdivision six of this section; or (b) allow its employees without use of accumulated leave time for HIV testing during work hours at least two times per year at a convenient time and place set by the employer, including allowing an employee to participate in a HIV testing drive at the employee's place of employment.

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

LBD08912-01-1

3. An employer shall not retaliate against an employee for requesting or obtaining a leave of absence under this section.

4. No employer shall request an employee's HIV test result.

5. This section shall not prevent an employer from providing leave for HIV testing in addition to leave allowed under any other provision of law. This section shall not affect an employee's rights with respect to any other employee benefit otherwise provided by law.

6. The commissioner is hereby authorized and directed to establish any necessary guidelines, including requirements for notice, request and approval of leave, and documentation, for the timely implementation of the program.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.