

# STATE OF NEW YORK

4352

2023-2024 Regular Sessions

## IN ASSEMBLY

February 14, 2023

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 Assem-  
bly, do enact as follows:

1 Section 1. The labor law is amended by adding a new section 202-n to  
2 read as follows:

3 § 202-n. Leave of absence for HIV testing granted to employees. 1. For  
4 the purposes of this section, the following terms shall have the follow-  
5 ing meanings:

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

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

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

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

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

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

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

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

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