

RI Regs Keep Household Member Definition in Paid Sick Leave Law

Description

- Over business objections, Rhode Island agency kept definition of household member intact
- Businesses worry the definition leaves law open to employee abuse
- State's paid sick and safe leave law goes into effect July 1

Rhode Island businesses and trade groups seeking tweaks to the state's new paid sick and safe leave law—particularly to the definition of covered household members—were rebuffed by state labor officials.

The [law](#) beginning July 1 will require employers in the state with 18 or more employees to offer 24 hours of paid sick and safety leave in 2018. Employees will receive 32 hours of the leave in 2019 and 40 hours in 2020 and subsequent years. Under the law, employees can use the paid leave for illness or domestic violence issues, or to deal with the illness or domestic violence issues of members of their household.

The law defines what constitutes a family member, which includes a child, parent, spouse, mother-in-law, father-in-law, grandparent, grandchild, domestic partner, sibling, care recipient, or member of the employee's household.

A regulation drafted by the state Department of Labor and Training further clarified the definition of household members to include "a person that resides at the same physical address as the employee or a person that is claimed as a dependent by the employee for federal income tax purposes."

Employers Worried About Abuse of Law

The state's Chambers of Commerce, trade groups, the hospitality industry, and several individual manufacturers warned that allowing employees to take paid sick or safe leave to care for someone who lives at their address leaves the law open to abuse.

The regulation's definition of household member will allow employees to take paid sick and safe leave to care for roommates and transient guests, according to the [Rhode Island Business Coalition](#)—which represents 25 of the state's Chambers of Commerce and trade groups—and the [Rhode Island Hospitality Association](#), a trade group that represents 700 food service, hotel, vendor, and hospitality members.

"It would make it impossible for an employer to determine if an employee is abusing the statute," the letters stated. The groups asked the agency to remove the physical address wording from the definition of a household member.

Matthew D. Weldon, the DLT's assistant director, said the agency heard business groups' concerns but decided to keep the definitions in the regulation.

"We feel as though this method provides a greater opportunity for people to be able to provide care for the people closest to them, while still having parameters around the definition," he told Bloomberg Law in an email.

Different Laws, Different Definitions

[Alicia J. Samolis](#), partner with Partridge Snow & Hahn LLP in Providence, noted that the paid sick and safe leave law's definition of a family member is different from that of the state's Temporary Caregiver

Insurance program. The TCI program, created by a 2014 state law, provides up to four weeks of benefits for people who need to be out of work to care for a seriously ill family member. That law doesn't extend to members of the household.

"You'd like to see all the laws have a similar definition, or it can create confusion," Samolis told Bloomberg Law.

One of the paid sick and safe leave law's early supporters said its definition of a household member is broad by design.

"We're glad the new law was kept flexible enough for employees to meet the needs of the people they care for," said Rachel Flum, executive director of the Economic Progress Institute, a nonpartisan policy and research group based in Providence. The group was part of a coalition of organizations that pushed the legislature to pass the paid sick time law. "The normal family configuration has changed," Flum said, "and the law reflects that."

18 Still the Magic Number

The DLT's regulation also preserves language on how employers should determine if they meet the 18-employee threshold mandating compliance with the law.

The proposed regulation says the law applies to employers that maintained an average of 18 or more employees in Rhode Island "during the previous payroll year's highest two employment quarters." Employers must make the determination at the beginning of the year, according to the regulation.

Employees at companies with 17 or fewer employees can take unpaid sick or safety leave without fear of losing their job.

The law's unpaid leave provision is likely to create an administrative headache for small employers, Samolis said. Employers generally didn't have to track unpaid time, she said, but now they will.

"It creates a shadow system where smaller employers will have to track this unpaid time. And if you don't track it, you don't know at what point you can discipline an employee," she said.

To contact the reporter on this story: Aaron Nicodemus in Boston at anicodemus@bloomberglaw.com

To contact the editors responsible for this story: Peggy Aulino at maulino@bloomberglaw.com; Terence Hyland at thyland@bloomberglaw.com; Chris Opfer at copfer@bloomberglaw.com

Copyright 2018, The Bureau of National Affairs, Inc.

Reproduced with permission. Published May 31, 2018. Copyright 2018 by The Bureau of National Affairs, Inc. (800-372-1033) <<http://www.bna.com>>

Date Created

June 8, 2018