



Legislation Text

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ORDINANCE AMENDING SECTION 29E-2 AND SECTION 29E-3 OF THE DULUTH CITY CODE TO CLARIFY THAT BY PARTICIPATING IN A MULTI-EMPLOYER PLAN AN EMPLOYER OF CONSTRUCTION INDUSTRY EMPLOYEES MAY MEET THE EARNED SICK AND SAFE TIME REQUIREMENTS IN CHAPTER 29E.

BY COUNCILORS SIPRESS AND FILIPOVICH:

The city of Duluth does ordain:

Section 1. That the Sec. 29E-2 of the Duluth City Code is hereby amended to read as follows:

Sec. 29E-2 Definitions.

For the purposes of this Chapter, the following terms shall be defined as follows:

(a) Calendar year. Calendar year means a consecutive twelve-month period as determined by an employer and may be based on an employee's employment anniversary date. (b) City. City means the city of Duluth.

(c) Child. Child means Employee's biological, adopted, step or foster child, legal ward or child for whom the employee is legal guardian regardless of age.

(d) Domestic abuse. Domestic abuse has the meaning given in Minnesota Statutes Sec. 518B.01.

(e) Earned sick and safe time. Earned sick and safe time means leave, including paid time off and other paid-leave systems, paid at the same hourly rate as an employee earns from employment that may be used for the same purpose as prescribed in Sec. 29E-4.

(f) Employee. Employee means any person employed by an employer who performs work within the geographic boundaries of the city for more than 50 percent of the employee's working time in a 12-month period or is based in the city of Duluth and spends a substantial part of his or her time working in the city and does not spend more than 50 percent of their work-time in a 12-month period in any other particular place.

For the purposes of this chapter, employee does not include the following:

(1) Independent contractors;

(2) Student interns;

(3) Seasonal employees; and

(4) Any person entitled to benefits under or otherwise covered by the federal Railroad

Unemployment Insurance Act, 45 U.S.C. Sections 351 et.seq.

(g) Employer. Employer means an individual, corporation, partnership, association, nonprofit organization or a group of persons who has 5 or more employees whether or not the employees work in the city. The number of employees is determined based on the average number of employees per week during the previous calendar year. Absent a contractual agreement stating otherwise, a temporary employee supplied by a staffing agency or similar entity shall be considered an employee of the staffing agency for all purposes of this chapter. For purposes of this chapter, employer does not include:

(1) The United States government;

(2) The state, including any officer, department, agency, authority institution, association, society, or other body of the state including the legislature and the judiciary; or

(3) Any county or local government except the city of Duluth.

(h) Family member. Family member means employee's:

(1) Child, adopted child, adult child, foster child; legal ward, or child for whom the employee is a legal guardian;

(2) Spouse or domestic partner;

(3) Sibling, stepsibling or foster sibling;

(4) Parent, stepparent, mother-in-law, father-in-law;

(5) Grandchild, foster grandchild, grandparent, step-grandparent; and

(6) Any other individual related by blood or whose close association with the employee is the equivalent of a family relationship.

(i) Multi-employer plan. A multi-employer plan means a plan maintained pursuant to one or more collective bargaining agreements between one or more unions and more than one employer to which employers are required to contribute.

(ij) Safe time. Safe time means the need for time off under the circumstances described in Minnesota Statutes Section 181.9413(b).

(jk) Student Intern. Student intern means an unpaid or paid student who is acquiring hands on training, work experience, or clinical training in connection to a course of study or higher education program for a limited period of time.

Section 2. That the Sec. 29E-3 of the Duluth City Code is hereby amended to read as follows:

Sec. 29E-3 Earned sick and safe time.

(a) Employees shall earn and accrue earned sick and safe time at the commencement of employment. For individuals who are employed on the date this ordinance takes effect, accrual shall begin on the date this ordinance takes effect.

(b) From the date earned sick and safe time begins to accrue for an employee, the employee shall accrue one hour of earned sick and safe time for every 50 hours worked within the geographic boundaries of the city. Earned sick and safe time shall accrue only in hour-unit increments; there shall be no accrual of a fraction of an hour of earned sick and safe time.

(c) Employers will permit an employee to accrue up to 64 hours of earned sick and safe time per year. Employers shall permit an employee to carry over up to 40 hours of earned but unused sick and safe time into the following year.

(d) An employer may satisfy the requirements of this Chapter by providing at least 40 hours of earned sick and safe time following the initial 90 days of employment for use by the employee during the first year, and providing at least 40 hours of earned sick and safe time beginning each subsequent year. If an employer has a substantially equivalent paid-leave policy, such as a paid-time-off policy, or a combination of sick and vacation time, that makes available to employees an amount of paid leave that may be used for the same purposes and under the same conditions as earned sick and safe time under this Chapter and that is sufficient to meet the requirements for earned sick and safe time as stated in subsections (a)-(c) of this section, the employer is not required to provide additional earned sick and safe time. Satisfaction of subsections (a)-(c) may be made through any combination of sick, vacation, or paid time off.

(e) An employer may opt to satisfy the requirements of this chapter for construction industry employees working on private or public projects by either:

(1) Paying at least the prevailing wage rate as defined by Minnesota Statutes, Section 177.42 and as calculated by the state department of labor and industry; ~~or~~

(2) Paying at least the required rate established in a registered apprenticeship agreement for apprentices registered with the state department of labor and industry; or

(3) Participating in a multi-employer plan that provides paid sick and safe leave jointly with other employers.

(f) An employer is not required to provide financial or other reimbursement to an employee upon the employee's termination, resignation, retirement, or other separation from employment for earned sick and safe time that the employee has accrued but not used.

(g) An employer is only required to allow an employee to use earned sick and safe time that is accrued pursuant to this ordinance when the employee is scheduled to perform work within the geographic boundaries of the city. An employer may allow use of accrued earned sick and safe time when an employee is scheduled to perform work for the employer outside of the city.

Section 3. That this ordinance shall take effect and be in force 30 days after its passage and publication.

STATEMENT OF PURPOSE: The purpose of this ordinance is to amend Sec 29E-2 and Sec. 29E-3 to allow construction industry employers to satisfy the requirement of Chapter 29E by participating in a multi-employer

plan.