

*I MINA'TRENTA NA LIHESLATURAN GUÅHAN*

**FIRST (2009) REGULAR SESSION**

**Bill No. 203-30(COR)**

**Introduced by:**

**MATT RECTOR**

**AN ACT TO CREATE A NEW § 3105.1 OF 22 GCA TO PROVIDE PAID SICK LEAVE FOR PRIVATE SECTOR EMPLOYEES AT A RATE COMPORABLE TO CLASSIFIED EMPLOYEES OF THE GOVERNMENT OF GUAM FOR THE HEALTH AND SAFETY OF GUAM'S WORKING FAMILIES MADE CRITICAL AS A RESULT OF THE H1N1 PANDEMIC AND TO AMEND SUBSECTIONS (C) AND (D) OF § 4108, 4 GCA FOR CONSTANCY WITH THE RECOMMENDATIONS OF THE CENTER FOR DISEASE CONTROL AND PREVENTION REGARDING SICK LEAVE TIME ALLOWED TO ALL EMPLOYEES WITHOUT DOCTORS CERTIFICATION; TO BE HEREBY KNOWN AS THE WORKING FAMILY HEALTH LEAVE ACT OF 2009**

**BE IT ENACTED BY THE PEOPLE OF GUAM:**

**Section 1: Legislative Findings and Intent:**

*I liheslatura* finds that there is an immediate potential danger to public safety due to the global H1N1 health-crisis currently threatening Guam's families and that the lack of paid sick leave offered to many of Guam's

1 private sector employees facilitates the spread of a disease and goes directly  
2 against the recommendations of the Center for Disease Control and  
3 Prevention (CDC) regarding control of this pandemic.

4 *I Liheslatura* further finds that the CDC states that Employees should,  
5 “Stay home if you are sick. If you have symptoms of influenza-like illness,  
6 stay home for 7 days after symptoms begin or until you have been symptom-  
7 free for 24 hours, whichever is longer. Following these recommendations will  
8 help keep you from infecting others and spreading the virus.”

9 *I Liheslatura* further finds that the lack of paid sick leave endangers all  
10 of Guam’s children as a result of parents sending their children to School  
11 because they don’t want to leave them alone and can’t stay home with them.

12 *I Liheslatura* further finds that mandatory doctors notes to justify  
13 staying home sick not only violates CDC recommendations and endangers  
14 health care workers but adds a huge burden on Guam’s already strained  
15 health care infrastructure and a financial burden on families and employers.

16 Additionally, *I Liheslaturan Guåhan* finds that Guam’s many private  
17 sector employees and their families have suffered for too long without an  
18 established standard for paid sick leave and that this current pandemic has  
19 created an urgent need to make this right so all of Guam’s people are treated  
20 justly and fairly no matter where they work.

21 It is therefore the intent of *I Liheslatura* to enact a new § 3105.1 of 22  
22 GCA to provide sick leave standards for all private sector employees which  
23 shall mirror as closely as possible the existing standards for Government of  
24 Guam employees and to amend Subsections (c) and (d) of 4 GCA § 4108 in  
25 order to implement a uniform standard across both the public and private

1 sector and to more adequately comply with the recommendations of the  
2 Center For Disease Control and Prevention in regards to employee sick leave  
3 in both the public and private sector.

4 **Section 2: A new § 3105.1 of 22 GCA is hereby enacted to read:**

5 **§ 3105.1. Sick Leave for Private Sector employees:**

6 (a) Employees occupying positions with any employer shall, as a  
7 *minimum* standard, accrue sick leave at the rate of one-half (.5) hours  
8 per every ten (10) hours worked or any fraction thereof.

9 (b) Accumulation. Unused sick leave may be accumulated and carried  
10 over to succeeding leave years without limitation.

11 (c) When Allowed. Sick leave with pay is allowed whenever:

12 (1) The employee is compelled to be absent from duty on account  
13 of physical or mental illness; injury; mental health examination,  
14 counseling or treatment; pregnancy; childbirth; medical, dental or  
15 optical examination or treatment; or because of quarantine due to  
16 his own or another's illness.

17 (2) The employee is compelled to be absent from duty to provide  
18 health care for a member of the employee's immediate family as  
19 a result of illness or injury. *Immediate family member* means the  
20 employee's spouse, common law, parents, parents-in-law,  
21 grandparents, brothers, sisters, children, grandchildren, any step  
22 or adoptive parents, adopted children or grandchildren of both the  
23 employee and the spouse, a guardian or person in loco parentis,  
24 or other.

1 (d) Certification. If an employee is absent because of illness, injury,  
2 medical condition or quarantine in excess of seven (7) consecutive days  
3 of work, he may be required to furnish a certification as to the  
4 incapacity from a regularly licensed physician or other evidence  
5 administratively acceptable.

6 (e) Administration. If the certification required by Subsection (d) is not  
7 furnished, all absence which would have been covered by such  
8 certification shall be indicated on the payroll as leave of absence  
9 without pay.

10 (f) Special Provisions. The generality of Subsections (a) through (f) is  
11 subject to the following special provisions:

12 (1) Additional sick leave with pay may be allowed an employee  
13 at the discretion of the employer. The provisions of this section  
14 shall represent a minimum standard and nothing herein shall be  
15 construed as interfering with the establishment of sick leave  
16 programs superior to this minimum standard.

17 (2) notwithstanding any other provision of law, in the event of  
18 conflict, the provisions of this section shall be superseded by a  
19 valid collective bargaining agreement.

20 (3) Falsification of an illness or medical condition report shall be  
21 considered sufficient cause for disciplinary action, including  
22 dismissal from employment for repeated offenses;

23 (4) Sick leave with pay shall be allowed during leaves of absence  
24 or vacation, provided, however, that any sick leave taken while

1 on vacation must be supported by a certificate issued by a  
2 licensed physician at the discretion of the employer

3 (5) The minimum charge for sick leave shall be one hour and  
4 additional charges in multiples thereof;

5 (6) Sick leave with pay, up to a maximum of thirteen (13) days,  
6 may be granted in advance of earning such leave under the  
7 conditions described in Subsections (a), (b), (d), (f)(3) and  
8 (f)(4) of this Section. If an employee is separated from the service  
9 without having earned all of the sick leave allowed and taken,  
10 there shall be deducted from any money due him at the time of  
11 separation an amount equal to his salary for the period of  
12 unearned sick leave allowed and taken;

13 (g) Any employer found guilty of violating the provisions of this  
14 section shall be fined five-hundred dollars (\$500.00) per instance for  
15 the first offense, and shall be guilty of a petty misdemeanor and fined  
16 one-thousand dollars (\$1000.00) per instance for each subsequent  
17 offense thereafter.

18 **Section 3. Subsection (c) of § 4108, 4 GCA is hereby amended to read:**

19 (c) When Allowed. Sick leave with pay is allowed whenever:

20 (1) The employee is compelled to be absent from duty on account  
21 of physical or mental illness; injury; mental health examination,  
22 counseling or treatment; pregnancy; childbirth; medical, dental or  
23 optical examination or treatment; or because of quarantine due to  
24 his own or another's illness.

1 (2) The employee is compelled to be absent from duty to provide  
2 health care for a member of the employee's immediate family as  
3 a result of [~~serious~~] illness or injury ~~and the employee has~~  
4 ~~exhausted all annual leave and compensatory time available.~~  
5 [~~Serious illness or injury means an urgent condition that is~~  
6 ~~certified by the attending physician as requiring hospitalization,~~  
7 ~~institutionalization, or extended home care in which the person~~  
8 ~~needs the constant administration of special medical care or~~  
9 ~~support.] *Immediate family member* means the employee's  
10 spouse, common law, parents, parents-in-law, grandparents,  
11 brothers, sisters, children, grandchildren, any step or adoptive  
12 parents, adopted children or grandchildren of both the employee  
13 and the spouse, a guardian or person in loco parentis or other.~~

14  
15 **Section 4. Subsection (d) of § 4108, 4 GCA is hereby amended to read:**

16 (d) Certification. If an employee is absent because of illness, injury,  
17 medical condition or quarantine in excess of [~~three (3)~~] Seven (7)  
18 consecutive days, he may be required to furnish a certification as to the  
19 incapacity from a regularly licensed physician or other evidence  
20 administratively acceptable. [~~The department head may require~~  
21 ~~certification for such other period as is appropriate.]~~