

60 sick leave accrues on the basis of that normal workweek.

61 C. Employees covered by 29 C.F.R. § 825.801 shall be assumed to work 40 hours in each workweek for
62 purposes of paid sick leave accrual.

63 D. Paid sick leave as provided in this section shall begin to accrue at the commencement of employment.
64 An employer may provide all paid sick leave that an employee is expected to accrue in a year at the
65 beginning of the year.

66 E. Any employer with a paid leave policy, such as a paid time off policy, that provides an employee an
67 amount of paid leave sufficient to meet the requirements of this section and that may be used for the same
68 purposes and under the same conditions as paid sick leave under this article shall not be required to provide
69 additional paid sick leave to any employee that is eligible for paid leave under the policy.

70 F. Any employer that has entered into a bona fide collective bargaining agreement that requires the
71 employer to provide an amount of paid leave sufficient to meet the requirements of this section and that may
72 be used for the same purposes and under the same conditions as paid sick leave under this article shall not be
73 required to provide additional paid sick leave to any employee covered by such collective bargaining
74 agreement.

75 G. Nothing in this section shall be construed as requiring financial or other reimbursement to an
76 employee from an employer upon the employee's termination, resignation, retirement, or other separation
77 from employment for accrued paid sick leave that has not been used.

78 H. If an employee is transferred to a separate division, entity, or location but remains employed by the
79 same employer, the employee is entitled to all paid sick leave accrued at the prior division, entity, or location
80 and is entitled to use all paid sick leave as provided in this section. If an employee is separated from
81 employment with an employer and the employee is rehired within 12 months of separation by the same
82 employer, previously accrued paid sick leave that had not been used shall be reinstated. Further, the
83 employee shall be entitled to use accrued paid sick leave and accrue additional paid sick leave at the
84 commencement of employment.

85 I. If a different employer succeeds or takes the place of an existing employer, each employee of the
86 original employer who remains employed by the successor employer is entitled to all paid sick leave accrued
87 while employed by the original employer and to use any such paid sick leave previously accrued.

88 J. An employer may loan paid sick leave to an employee in advance of accrual of paid sick leave by such
89 employee.

90 K. Nothing in this article shall be construed to (i) discourage or prohibit an employer from the adoption
91 or retention of a more generous paid sick leave policy than outlined herein; (ii) preempt, limit, or otherwise
92 affect the applicability of any other law, regulation, requirement, policy, or standard that provides for
93 greater accrual or use by employees of paid sick leave or that extends other protections to employees; or (iii)
94 diminish the rights of public employees regarding paid sick leave or the use of paid sick leave as provided
95 under any applicable law.

96 L. Employees who are employed and compensated on a fee-for-service basis shall accrue paid sick leave
97 in accordance with regulations adopted by the Commissioner. The Commissioner shall promulgate such
98 regulations, which shall provide for the accrual of paid sick leave for such employees that is consistent with
99 the provisions of this section.

100 **§ 40.1-33.6:3. Use of paid sick leave.**

101 A. Paid sick leave shall be provided to an employee by an employer for:

102 1. An employee's mental or physical illness, injury, or health condition; an employee's need for medical
103 diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or an employee's
104 need for preventive medical care;

105 2. Care of a family member with a mental or physical illness, injury, or health condition; care of a family
106 member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health
107 condition; or care of a family member who needs preventive medical care; or

108 3. Absence due to domestic violence, sexual assault, or stalking, provided that the leave is to allow the
109 employee to seek or obtain medical care, mental health care, counseling, legal services, relocation or
110 securing of an existing home, or other victim services for the employee or the employee's family member.

111 B. Paid sick leave shall be provided upon the request of an employee. Such request may be made in
112 writing, by electronic means, or by any other means acceptable to the employer. When possible, the request
113 shall include the expected duration of the absence.

114 C. When the use of paid sick leave is foreseeable, the employee shall make a good faith effort to provide
115 notice of the need for such leave to the employer in advance of the use of the paid sick leave and shall make a
116 reasonable effort to schedule the use of paid sick leave in a manner that does not unduly disrupt the
117 operations of the employer.

118 D. An employer that requires notice of the need to use paid sick leave shall provide a written policy that
119 contains procedures for its employees to provide notice. An employer that has not provided to an employee a
120 copy of its written policy for providing such notice shall not deny paid sick leave to the employee based on
121 noncompliance with such a policy.

122 E. An employer shall not require, as a condition of an employee's taking paid sick leave, that an employee
 123 search for or find a replacement worker to cover the hours during which the employee is using paid sick
 124 leave. An employer shall not require an employee to work an alternate shift to make up for the use of sick
 125 leave.

126 F. Paid sick leave shall be used in hourly increments unless the employer allows paid sick leave to be
 127 taken in smaller increments.

128 G. An employer shall not require disclosure of details of health information about an employee or an
 129 employee's family member or details of domestic violence, sexual assault, or stalking as a condition of
 130 providing paid sick leave under this article. Unless otherwise required by law, an employer who possesses
 131 health, domestic violence, sexual assault, or stalking information about an employee or an employee's family
 132 member shall treat such information as confidential and shall not disclose such information except to the
 133 employee or with the consent of the employee.

134 H. For paid sick leave of three or more consecutive work days, an employer may require reasonable
 135 documentation that the paid sick leave has been used for a purpose for which such leave is required to be
 136 provided as set forth in subsection A. For the use of paid sick leave related to subdivision A 1 or 2,
 137 documentation signed by a health care professional indicating that paid sick leave is necessary shall be
 138 considered reasonable documentation for purposes of this subsection. For the use of paid sick leave related
 139 to subdivision A 3, (i) a police report indicating domestic violence, sexual assault, or stalking; (ii) a court
 140 document indicating the employee is involved in legal action related to domestic violence, sexual assault, or
 141 stalking; (iii) documentation from a victim services advocate, the employee's attorney, a member of the
 142 clergy, or a health care professional that the employee is or was receiving services related to domestic
 143 violence, sexual assault, or stalking; or (iv) the employee's written statement that the use of paid sick leave is
 144 for one of the purposes described in subdivision A 3 shall be considered reasonable documentation for
 145 purposes of this subsection.

146 **§ 40.1-33.6:4. Certain health care workers; scope of article.**

147 A. No provision of this article shall apply to an employee as that term is defined in § 40.1-33.3 or the
 148 employer of any such employee in relation to such employment.

149 B. No employee who (i) is licensed, registered, or certified by a health regulatory board within the
 150 Department of Health Professions; (ii) is employed by a facility licensed by the Department of Health or the
 151 University of Virginia Medical Center or Virginia Commonwealth University Health System Authority; and
 152 (iii) works, on average, no more than 30 hours per week shall be eligible to accrue and use paid sick leave
 153 under the provisions of this article.

154 C. Notwithstanding the provisions of this article, an employer shall not be required to provide paid sick
 155 leave under the provisions of this article to any employee who is employed on a pro re nata, or as-needed,
 156 basis, regardless of the number of hours worked in the month and who is (i) licensed, registered, or certified
 157 by a health regulatory board within the Department of Health Professions; (ii) employed by a facility
 158 licensed by the Department of Health; (iii) employed by the University of Virginia Medical Center or
 159 Virginia Commonwealth University Health System Authority; or (iv) employed by any agency licensed by the
 160 Department of Behavioral Health and Developmental Services.

161 D. No provision of this article shall apply to an employer or employee as such terms are defined in 45
 162 U.S.C. § 351.

163 **§ 40.1-33.6:5. Notice and recordkeeping; regulations.**

164 The Commissioner shall promulgate regulations for employee notice and employer recordkeeping,
 165 including the following requirements for employers to:

166 1. Notify employees of their rights under this article, both in writing and through required posting,
 167 including their right to file a complaint or bring a civil action for violations of this article;

168 2. Establish and maintain recordkeeping systems regarding the use and accrual of paid sick leave,
 169 including the requirement to retain records for three years; and

170 3. Ensure the confidentiality of any protected health information or information regarding domestic
 171 violence, sexual assault, or stalking that the employer possesses about an employee or an employee's family
 172 member.

173 **§ 40.1-33.6:6. Retaliatory action prohibited.**

174 A. No employer shall discharge, discipline, threaten, discriminate against, or penalize an employee, or
 175 take other retaliatory action regarding an employee's compensation, terms, conditions, location, or privileges
 176 of employment, because the employee (i) has requested or exercised the benefits provided for in this article;
 177 (ii) has alleged a violation of this article; (iii) has participated in an investigation, hearing, or proceeding or
 178 cooperated with or assisted the Commissioner in an investigation of any alleged violation of this article; or
 179 (iv) has informed any individual of such individual's potential benefits under this article.

180 B. No person shall interfere with, restrain, deny the exercise of, or deny the attempt to exercise any benefit
 181 provided pursuant to this article. An employer's absence control policy shall not count paid sick leave taken
 182 under this article as an absence that may lead to or result in discipline, discharge, demotion, suspension, or
 183 any other adverse action. The protections of this section shall apply to any person who mistakenly but in

184 *good faith alleges a violation of the provisions of this article.*

185 **§ 40.1-33.6:7. Enforcement; civil penalties; civil actions.**

186 *A. The Commissioner shall promulgate regulations for implementation and enforcement of this article.*

187 *B. In enforcing the provisions of this article, the Commissioner shall establish a system utilizing multiple*
188 *means of communication to receive complaints regarding noncompliance with this article and to investigate*
189 *complaints received by the Commissioner in a timely manner.*

190 *C. Any person alleging a violation of this article shall have the right to file a complaint with the*
191 *Commissioner within one year after the date the person knew or should have known of the alleged violation.*
192 *The Commissioner shall encourage reporting pursuant to this section by keeping confidential, to the*
193 *maximum extent permitted by applicable laws, the name and other identifying information of the employee or*
194 *other person reporting the violation, provided, however, that with the authorization of such person, the*
195 *Commissioner may disclose the person's name and identifying information as necessary to enforce this article*
196 *or for other appropriate purposes.*

197 *D. Upon receiving a complaint alleging a violation of this article, the Commissioner shall investigate*
198 *such complaint and attempt to resolve it through mediation between the complainant and the subject of the*
199 *complaint or other means, including by implementing a reasonable cure period for compliance through the*
200 *regulations adopted pursuant to subsection A. If the subject of such a complaint corrects the alleged violation*
201 *within such cure period, no action shall be brought. The Commissioner shall keep the complainant notified*
202 *regarding the status of his complaint and any resultant investigation. If the Commissioner believes that a*
203 *violation has occurred, he shall issue to the offending person or employer a notice of violation and the relief*
204 *required of the offending person or entity. The Commissioner shall prescribe the form and wording of such*
205 *notices of violation, including any method of appealing a decision of the Commissioner.*

206 *E. The Commissioner shall notify any employer that he alleges has violated any provision of this article*
207 *by certified mail. Such notice shall contain a description of the alleged violation. Within 15 days of receipt of*
208 *notice of the alleged violation, the employer may request an informal conference with the Commissioner*
209 *regarding such alleged violation.*

210 *F. Any such employer that knowingly violates this article shall be subject to a civil penalty not to exceed*
211 *\$150 for the first violation and, for subsequent violations that occur within two years of any previous*
212 *violation, not to exceed \$300 for the second violation and not to exceed \$500 for each successive violation. In*
213 *determining the amount of any civil penalty to be imposed, the Commissioner shall consider the size of the*
214 *business of the employer charged and the gravity of the violation. The decision of the Commissioner shall be*
215 *final.*

216 *G. The Commissioner, with the written and signed consent of an employee, may institute proceedings on*
217 *behalf of an employee to enforce compliance with this article, to grant equitable relief as appropriate and*
218 *permitted by law, and to collect the amount of any uncompensated sick leave that shall be paid to the*
219 *employee entitled thereto. Upon entry of a final order of the Commissioner, or upon entry of a judgment*
220 *against the employer, the Commissioner or the court shall assess attorney fees of one-third the amount set*
221 *forth in the final order or judgment.*

222 *H. In addition to any civil penalties provided by this section, and without regard to any exhaustion of*
223 *alternative administrative remedies provided for in this section, an employee who alleges a violation of this*
224 *article may bring a civil action in a court of competent jurisdiction against an employer violating this article.*
225 *Such action may be brought by a person aggrieved by a violation of this article without first filing an*
226 *administrative complaint. Upon prevailing in an action brought pursuant to this section, the court shall order*
227 *as a remedy to the employee (i) twice the amount of any uncompensated sick leave; (ii) twice the amount of*
228 *any actual damages suffered as the result of an employer's violation of this article; (iii) injunctive relief as*
229 *appropriate to restrain continued violation of this article; (iv) such legal or equitable relief as may be*
230 *appropriate to remedy the violation, including the reinstatement of the employee to the same position held*
231 *before the retaliatory action or to an equivalent position; and (v) compensation for any lost wages, benefits,*
232 *and other remuneration, together with interest thereon and reasonable attorney fees and costs. The statute of*
233 *limitations for a civil action brought pursuant to this section shall be for a period of two years from the date*
234 *the alleged violation occurred or the date the aggrieved employee knew or should have known of the*
235 *violation.*

236 *I. Civil penalties owed under this article shall be paid to the Commissioner for deposit into the general*
237 *fund. The Commissioner shall prescribe procedures for the payment of proposed assessments of civil*
238 *penalties that are not contested by employers. Such procedures shall include provisions for an employer to*
239 *consent to abatement of the alleged violation and to pay a proposed civil penalty or a negotiated sum in lieu*
240 *of such civil penalty without admission of any civil liability arising from such alleged violation.*

241 **2. That the provisions of the first enactment of this act shall become effective on July 1, 2027.**

242 **3. That by July 1, 2027, the Commissioner of Labor and Industry shall adopt regulations pursuant to**
243 **§ 40.1-33.6:7 of the Code of Virginia, as created by this act, for the implementation and enforcement of**
244 **Article 2.1:1 (§ 40.1-33.6:1 et seq.) of Chapter 3 of Title 40.1 of the Code of Virginia, as created by this**
245 **act.**