



Committee on Legislation

~AGENDA~

Monday, August 6, 2018

1:01 PM

Committee Chair: Virginia Perez

Committee Room, 148 Martine Avenue, 8th Floor, White Plains, NY 10601

www.westchesterlegislators.com

CALL TO ORDER

This meeting is joint with the Committees on Budget & Appropriations, Labor & Housing and Environment, Health & Energy.

MINUTES APPROVAL

1. Monday, July 16, 2018 at 2:01 PM

I. ITEMS FOR DISCUSSION

1. **(ID # 10623)** **Local Law – LEGISLATORS BORGIA, BARR, BOYKIN, COVILL, JOHNSON, KAPLOWITZ, MAHER, PARKER, PEREZ, SHIMSKY, A. WILLIAMS, L. WILLIAMS: Paid sick leave for Certain Employees:**

A proposed "LOCAL LAW amending the Laws of Westchester County by adding a new Article III Chapter 700 providing paid sick leave for certain employees."

II. OTHER BUSINESS

Unfinished Business and any other agenda items to come before the Committee.

III. RECEIVE & FILE

1. **(ID # 10769)** **Communication – HON. MARGARET CUNZIO: Empirecenter.org Article - "Single-payer's SALT problem":**

Forwarding an article from *empirecenter.org* entitled, "Single-payer's SALT problem."

2. **(ID # 10809)** **Communication – HON. MARYJANE SHIMSKY: NYTimes Editorial - "Tax Web Sales, New York":**

Forwarding a *New York Times* editorial entitled, "Tax Web Sales, New York."

3. **(ID # 10810)** **Communication – HON. MARYJANE SHIMSKY: NYSAC Blog Article - "County Executives Voice Bipartisan Support for Internet Fairness Act":**

Forwarding a *NYSAC.org* blog article entitled, "County Executives Voice Bipartisan Support for Internet Fairness Act."

4. **(ID # 10954)** **Communication – LEGISLATORS MAHER, A. WILLIAMS, SHIMSKY, BARR AND COVILL: Various articles on: Suicide Prevention - Role for Firearm Dealers and Ranges:**

Forwarding various articles regarding Suicide Prevention - Role for Firearm Dealers and Ranges.

5. **(ID # 11055)** **Communication – HON. MARYJANE SHIMSKY: Ordinance re: Sale of Tobacco in San Francisco, CA.:**

Forwarding an Ordinance, #140-17, Banning the Sale of Flavored Tobacco Products in San Francisco, CA.

ADJOURNMENT



Committee on Legislation

~MINUTES~

Monday, July 16, 2018

2:01 PM

DRAFT

Committee Chair: Virginia Perez

Committee Room, 148 Martine Avenue, 8th Floor, White Plains, NY 10601

www.westchesterlegislators.com

CALL TO ORDER

This meeting is joint with the Committee on Labor & Housing.

Attendee Name	Title	Status	Arrived
Virginia Perez	Chair	Present	
Catherine Borgia	D9 Legislator	Present	
Gordon A. Burrows	D15 Legislator (Minority Whip)	Present	
Kitley Covill	D2 Legislator	Present	
MaryJane Shimsky	D12 Legislator (Majority Whip)	Present	
John G. Testa	D1 Legislator (Minority Leader)	Present	
Alfreda Williams	D8 Legislator (Vice Chair)	Present	
Benjamin Boykin	D5 Legislator (Chairman)	Present	

Others In Attendance: LAW: S. Dolgin-Kmetz, J. Adin HUMAN RIGHTS: J. Epps BOL: Leg. D. Maher, Leg. M. Cunzio, Leg. C. Parker, Leg. M. Kaplowitz, Leg. C. Johnson, Leg. T. Clements. Leg. N. Barr, D. Power, D. Linhardt, A. Restiano, M. Clark GUESTS: M. Zarfes, B. Kramer, A. Annunziata, W. Frank, R. Soares, C. Finger, G. Curtis, G. Guera, K. Johnson, R. Varadian, J. Hanley, B. Shandley, B. Betts, R. Hollingsworth, K. Orenstein, D. Virrill, K. Jensen Graham, E. Brown, S. Lasko, E. Perfetti, B. Meyerson, C. Carbo, D. Alarcon, S. Lindsey, J. Cella, T. Johnson, P. Saccoia Ferraro, D. Botsoe, K. Jones, K. Killingback, J. Moran, T. Wandas, J. Kraft, V. Scimia, H. Orenstein, C. Hawkins-Syska, L. Caro, R. Haggerty, L. Varadian, C. Manfredi, R. Acampora, R. Conover, Z. Valentin, A. Puidalk, j. Curtis, D. Engly, G. Green, R. Sru.

DRAFT

Minutes Acceptance: Minutes of Jul 16, 2018 2:01 PM (MINUTES APPROVAL)

MINUTES APPROVAL

- Monday, June 18, 2018 at 10:01 AM

On motion of Legislator Burrows, seconded by Legislator Borgia, the minutes were approved 8 - 0.

I. ITEMS FOR DISCUSSION

- (ID # 10626) Local Law – LEGISLATORS BORGIA, BARR, L. WILLIAMS, BOYKIN, A. WILLIAMS, PARKER, MAHER AND JOHNSON: Cooperative Housing Corporation Disclosure Law:**

A proposed "LOCAL LAW amending Chapter 700 to the Laws of Westchester County relating to applications for prospective purchasers of stock in Cooperative Housing Corporations."

Invited Guests:

John Nonna, County Attorney, Stacey Dolgin-Kmetz, Chief Deputy County Attorney, Justin Adin, Associate County Attorney

Marlene Zarfes, Deputy Executive Director and John Baker, Senior Housing and Reverse Mortgage Counselor, Westchester Residential Opportunities, Inc.

Jerrice Duckette Epps, Acting Exec. Director, Westchester County Human Rights Commission & Westchester County Equal Employment Opportunity Office

Barry Kramer, Westchester Choice Realtors

Albert Annunziata, Exec. Director, Building & Realty Institute and Co-op & Condo Council of Westchester

Wendy Frank, Constituent Testimony

Jennifer Soares, Constituent Testimony

Chair Perez opened the meeting and asked the invited guests who were giving constituent testimony to come to the table. The guests were Wendy Frank, Rui Soares, Valerie Scimia and Zulma Valentin who shared their experiences with co-op boards.

Ms. Frank gave the history of her ownership of her co-op. She stated that numerous applicants to buy her co-op were refused with no explanation by the board. She is a supporter of this legislation.

Mr. Soares, the next speaker, from Rye, stated that he was here because he had a very good buyer who was rejected with no reason. He then gave some background about himself and said he had a compelling reason to sell which was that they needed more room. He stated that their applicant had a good background and income and the board gave no reason why they had been rejected. Mr Soares is also in favor of the legislation. The Committee members asked several questions after his statement.

Leg. Burrows asked what race was the potential buyer. Mr. Soares responded that he was Chinese.

The next speaker was Zulma Valentin who stated that she was speaking against the legislation. She believes that it just adds another layer that is not necessary and would conflict with other established processes. She believes the law would put an onerous burden on the board.

Leg. Cunzio asked if there was a correlation between a co-op board approving a buyer and a corporation approving a partner. Would a corporation have such a law? Ms. Valentin said no.

Leg. Borgia asked several questions about the interview process. Ms. Valentin said the percentage of people who pass their interview was about 90% and for those who weren't accepted the reason is mostly financial.

The last speaker was Valerie Scimia and she noted that she is against this legislation. She stated that the board doesn't make arbitrary decisions and doesn't discriminate. They set up interviews as soon as possible. Their turnaround is as little as two weeks from the time they get the completed package. She noted that beyond income they also want someone who will obey the co-op rules.

The second group of guests were invited to the table. They included Jerrice Epps, Acting Executive Director, Human Rights Commission, Justin Adin, County Attorney's Office and Marlene Zarfes, Deputy Dir. Westchester Residential Opportunities.

Ms. Epps note that at the last meeting there were questions for some of the specifics in regard to co-ops and the amount of co-op claims and complaints that had been received. She stated that she had circulated statistics on co-op complaints to the Board and then went over the report with the committee and the statistics are for four years. She stated that there may also be unreported claims, some may have filed with the Attorney General's Office, some with the NYS Human Rights Commission office while

some may have decided not to file for whatever reason. Ms. Zarfes of Westchester Residential Opportunities noted that what Ms. Epps had discussed was just the tip of the iceberg. She explained that there are so many people who don't file either because they feel humiliated or degraded or they can't afford to go through the process or be subjected to the time.

Ms. Zarfes stated that the WRO does everything housing related. Their fair housing department enforces, educates and advocates for fair housing. They do housing testing as well. She explained how the testing works, but that they can't test co-ops because they can't provide financials. The only way to know about discrimination in co-ops is by disclosure.

Boards can reject you for any reason except if you are a protected class. Unlike houses and condos, co-ops are treated differently and that puts people at a disadvantage. A short discussion followed.

Leg. Testa asked if we have the statistics on how many co-ops have been sold over the last few years? If was suggested that the realtors could supply that number.

Mr. Adin from the Law Department discussed the enforcement mechanism in the current draft. He noted that there is no independent claim for the co-op board not making a decision in time or didn't disclose a reason for denial. The claim would have to be filed through the Human Rights Commission which would investigate the claim. There is no fine in the law as it is written.

Legislator Borgia explained this is not a law that changes Fair Housing. This is a process law that says that an application should be considered within a certain amount of time and that if the applicant is rejected they should be given a reason, so both the buyer and seller have an answer. It does not change the current Fair Housing Law, a co-op still has the right to deny an applicant for any particular reason. This law is just requiring that the Board disclose the reason.

Leg. Maher asked the about the Suffolk County Law. Mr. Adin explained that our law is like their Law. Mr. Adin said he has the Suffolk County Law as it was passed by the Board. He stated there was nothing in the Law as it was written concerning fines.

The next group of guest included the Realtors and Co-op Boards. Mr. Kramer from Westchester Choice Realtors spoke first. He stated that he was in favor of the law and has addressed the committee in previous meetings. Other members of his group also spoke.

Mr. Annunziata, Executive Director, Building & Realty Institute & Co-op and Condo Council of Westchester then spoke. He stated that he is opposed to the Local Law and he has also addressed the members at previous meetings. He submitted several statements of statistics to the committee. Other members of his group also spoke.

To view this discussion, please go to:

<http://westchestercountyny.iqm2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=5064&Format=Agenda>

2. (ID # 11060) Resolution – PH - Cooperative Housing Corporation Disclosure Law:

A RESOLUTION setting a Public Hearing on a proposed "LOCAL LAW amending Chapter 700 to the Laws of Westchester County relating to applications for prospective purchasers of stock in Cooperative Housing Corporations." [Public Hearing set for _____, at _____ m.; Local Law Intro No. 10626-2018]

For discussion, please see Item 1.

Minutes Acceptance: Minutes of Jul 16, 2018 2:01 PM (MINUTES APPROVAL)

II. OTHER BUSINESS

Unfinished Business and any other agenda items to come before the Committee.

III. RECEIVE & FILE

ADJOURNMENT

Moved by Legislator Covill, seconded by Legislator Testa, the Committee adjourned at 4:00PM.

Minutes Acceptance: Minutes of Jul 16, 2018 2:01 PM (MINUTES APPROVAL)

TO: HONORABLE BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee has reviewed “A LOCAL LAW amending the Laws of Westchester County by adopting a new Article III Chapter 700 providing paid sick leave for certain employees.”

Your Committee is aware that roughly 36% of workers in Westchester County lack paid sick time, and low-income and part-time workers are especially unlikely to be covered. Access to paid sick time promotes safe and healthy work environments by reducing the spread of illness, health care costs, and work-family conflict by providing greater flexibility to fulfill caregiving responsibilities.

Your Committee is informed that workers of color are less likely to have access, with Hispanic workers substantially less likely to have access: 50% of Hispanic, 33% of Black, and 32% of Asian workers in Westchester County lack access to paid sick time. Additionally, state and local government workers are much more likely than private sector workers to have paid sick time: 87% of state and local government workers have access to paid sick time in Westchester County compared with 60% of private sector workers.

Your Committee notes that research shows that workers without access to paid sick time are three times more likely to forgo treatment for themselves and almost two times more likely to forgo care for a family member compared with workers who have paid sick time. Further, a recent study found that employers who provided paid sick time to their employees reported fewer occupational injuries among employees than those who did not have paid sick time coverage.

Your Committee is also aware that paid sick time allows parents to provide personal care for their sick children. Parental care makes children's recoveries faster and can prevent future health problems. When parents don't have paid sick time, they are more than twice as likely as parents with paid sick time to send a sick child to school or daycare, spreading illness, and five times as likely to report taking their child or a family member to the emergency room because they were unable to take time off work during normal work hours.

Your Committee further informed that paid sick time will reduce recovery time and decrease the likelihood of spreading illness to other members of the workforce and to the public. During the H1N1 flu pandemic of 2009, researchers estimate that 5 million cases of the flu would have been prevented if a federal law providing paid sick time had been in place.

Paid sick time will reduce health care expenditures. Emergency room visits increase health care costs on taxpayers. Nationally, providing all workers with paid sick time would reduce visits to hospital emergency departments and save \$1 billion per year in medical costs, including more than \$500 million in savings to publicly funded health insurance programs such as Medicare, Medicaid, and SCHIP. As baby boomers age, more and more elderly individuals will need support from family caregivers to lead healthy, independent lives. Paid sick time allows employees to take off work in order to care for an elderly family member, including taking the individual to a doctor's appointment or providing care during a health emergency.

Your Committee is further informed that providing paid sick time is good for a company's bottom line. Researchers estimate that the total cost of "presenteeism," where employees go to work sick and are less productive, is more than \$150 billion per year. Sick workers also spread disease to their co-workers. Paid sick time also results in reduced voluntary and involuntary turnover. It costs an employer 150% of a salaried employee's yearly salary to replace him or her. For an hourly employee, turnover costs the employer anywhere from 50% to 75% of the employee's annual pay. Since enacting a paid sick time law in 2007, San Francisco has performed better than surrounding counties in terms of total employment. Ensuring that all employers provide paid sick time, levels the playing field for employers who don't already provide this benefit and lets companies choose employees from a larger pool of people, allowing everyone to benefit.

Your Committee additionally notes that once paid sick time laws are enacted they are popular with both business and workers. For example, businesses in New York City look very positively on the law now that it has been in effect for several years. 86% of employers surveyed said they had a positive view of the law and a whopping 98% said they had seen no instances of abuse. Golden Gate Restaurant Association, in San Francisco, while originally an opponent, has since said the paid sick time law was successful and “the best public policy for the least cost,” also acknowledging that employees have not abused paid sick leave.

Your Committee is aware that since 2006, 40 jurisdictions, including 7 states, have enacted laws requiring employers to provide paid sick time to their employees. None of those jurisdictions have experienced negative economic consequences as a result of their paid sick time law. New York City showed steady job growth in the year after the law went into effect; San Francisco showed stronger job growth than in surrounding counties in the year after their law went into effect; Washington D.C. and Seattle saw no negative economic effects following implementation of their paid sick time law in either job loss or movement of businesses out of the city.

Your Committee further notes that Westchester County workers in service, transportation, and manufacturing occupations are less likely to have paid sick time. 54% in service occupations and 47% in transportation and manufacturing occupations do not have access to this benefit. This includes food service workers and home health aides, two groups which can very easily, and rapidly, spread disease.

As you know, this Honorable Board must comply with the requirements of the State Environmental Quality Review Act (“SEQRA”). Your Committee is advised that the Department of Planning has reviewed the applicable SEQRA regulations, and has concluded that this proposed Act_____. Your Committee concurs with that conclusion.

An affirmative vote of a majority of the voting strength of your Honorable Board is required for approval of this Act.

In light of the aforementioned, your Committee, after careful consideration, recommends the adoption of this local law.

Dated: _____, 2017

White Plains, New York

COMMITTEE ON

RESOLUTION NO. ____ – 2018

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. ____ - 2018, entitled “A LOCAL LAW amending the Laws of Westchester County by adopting a new Article III Chapter 700 providing paid sick leave for certain employees.” The public hearing will be held at __.m. on the ____ day of _____, 2018 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.

Attachment: LL - Paid sick leave for Certain Employees - DRAFT (10623 : Paid sick leave for Certain Employees)

LOCAL LAW INTRO. NO. - 2018

A LOCAL LAW amending the Laws of Westchester County adding an Article III to Chapter 700 providing paid sick leave for certain employees.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. A new Article III is hereby added to Chapter 700 of the Laws of Westchester County to read as follows:

Article III-EARNED SICK LEAVE LAW

Sec. 700.36. Short Title.

Sec. 700.37. Definitions.

Sec. 700.38. Accrual of Earned Paid Sick Time.

Sec. 700.39. Use of Earned Paid Sick Time.

Sec. 700.40. Exercise of Rights Protected;

Retaliatory Personnel Actions Prohibited.

Sec. 700.41. Notice and Posting.

Sec. 700.42. Employer Records.

Sec. 700.43. Enforcement and Penalties.

Sec. 700.44. Civil Action.

Sec. 700.45. Confidentiality and Nondisclosure.

Sec. 700.46. Encouragement of More Generous Earned Paid Sick Leave Policies; No Effect on More Generous Policies or Laws.

Sec. 700.47. Other Legal Requirements.

Sec. 700.48. Public Education and Outreach.

Sec. 700.49. Collective Bargaining Agreement Opt Out.

Sec. 700.50. Severability.

Sec. 700.36. Short Title.

This Chapter shall be known as and may be cited as the “Earned Sick Leave Law.”

Sec. 700.37. Definitions.

For Purposes of this Chapter:

(1) "Child" shall mean, regardless of age, a biological, adopted or foster child, a legal ward, or a child of an employee standing in loco parentis.

(2) "Earned paid sick time" means time that is compensated at the same hourly rate and with the same benefits, including health care benefits, as the employee normally earns during hours worked and is provided by an employer to an employee for the purposes described in Section 685.31 of this Chapter, but in no case shall this hourly amount be less than that provided under section 652(1) of the labor law of New York.

(3) "Employee" shall mean any "employee" as defined in section 190(2) of the labor law of New York who is employed for hire within Westchester County for more than 80 hours in a calendar year who performs work on a full-time or part-time basis, including work performed in a transitional jobs program pursuant to section 336-f of the social services law of New York, but not including work performed as a participant in a work experience program pursuant to section 336-c of the social services law of New York.

(4) "Domestic partner" shall mean any "domestic partner" as defined under section 550.02(1) of the Laws of Westchester County or section 4 of the workers' compensation law of New York State.

(5) "Domestic worker" shall mean any "domestic worker" as defined in section 2(16) of the labor law of New York who is employed for hire within Westchester County for more than 80 hours in a calendar year who performs work on a full-time or part-time basis.

(6) "Employer" shall mean: (A) any "employer" as defined in section 190(3) of the labor law of New York; or (B) Westchester County. For the purposes of this Chapter, "employer" does not include any of the following:

(a) The United States Government;

(b) The State of New York including any office, department, independent agency, authority, institution, association, society or other body of the state, including the legislature and the judiciary; or

(c) With the exception of Westchester County, any local government, municipality, or county or any entity governed by general municipal law section 92 of New York or county law section 207 of New York.

In determining the number of employees performing work for an employer for compensation during a given week, all employees performing work for compensation on a full-time, part-time or temporary basis shall be counted, provided that where the number of employees who work for an employer for compensation per week fluctuates, business size may be determined for the current calendar year based upon the average number of employees who worked for compensation per week during the preceding calendar year.

(7) "Family member" means: an employee's child, spouse, domestic partner, parent, sibling, grandchild or grandparent; the child or parent of an employee's spouse or domestic partner; any

other individual related by blood to the employee; or any other individual whose close personal association with the employee is the equivalent of a family relationship.

(8) "Health care professional" means any person licensed under Federal or State law to provide medical or emergency services, including but not limited to doctors, nurses, midwives and emergency room personnel.

(9) "Parent" shall mean a biological, foster, step- or adoptive parent, or a legal guardian of an employee, or a person who stood in loco parentis when the employee was a minor child.

(10) "Retaliatory personnel action" means denial of any right guaranteed under this Chapter or any threat, discharge, suspension, demotion, reduction of hours, reporting or threatening to report an employee's suspected citizenship or immigration status, or the suspected citizenship or immigration status of a family member of the employee to a federal, state or local agency, or any other adverse action against an employee for the exercise of any right guaranteed herein including any sanctions against an employee who is the recipient of public benefits for rights guaranteed under this Chapter. Retaliation shall also include interference with or punishment for in any manner participating in or assisting an investigation, proceeding or hearing under this Chapter.

(11) "Family offense matter" shall mean acts or threats of disorderly conduct, harassment in the first degree, harassment in the second degree, aggravated harassment in the second degree, sexual misconduct, forcible touching, sexual abuse in the third degree, sexual abuse in the second degree as set forth in subdivision 1 of section 130.60 of the penal law, stalking in the first degree, stalking in the second degree, stalking in the third degree, stalking in the fourth degree, criminal mischief, menacing in the second degree, menacing in the third degree, reckless endangerment, strangulation in the first degree, strangulation in the second degree, criminal obstruction of breathing or blood circulation, assault in the second degree, assault in the third degree, an attempted assault, identity theft in the first degree, identity theft in the second degree, identity theft in the third degree, grand larceny in the fourth degree, grand larceny in the third degree or coercion in the second degree as set forth in subdivisions 1, 2 and 3 of section 135.60 of the penal law between spouses or former spouses, or between parent and child or between members of the same family or household. For purposes of this subsection, "members of the same family or household" shall mean (i) persons related by consanguinity or affinity; (ii) persons legally married to or in a domestic partnership with one another; (iii) persons formerly married to or in a domestic partnership with one another regardless of whether they still reside in the same household; (iv) persons who have a child in common, regardless of whether such persons have been married or domestic partners or have lived together at any time; and (v) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time.

(12) "Sexual offense" shall mean an act or threat of an act that may constitute a violation of article 130 of the penal law.

(13) "Stalking" shall mean an act or threat of an act that may constitute a violation of section 120.45, 120.50, 120.55, or 120.60 of the penal law.

(14) “Year” means a regular and consecutive 12-month period as determined by the employer; except that for the purposes of sections 685.61 and 685.71 of this Chapter, “year” shall mean a calendar year.

Sec. 700.38. Accrual of Earned Paid Sick Time.

(1) All employees shall accrue a minimum of one hour of earned paid sick time for every 30 hours worked, other than a domestic worker who shall accrue earned paid sick time pursuant to subdivision 4 of this section. Employees of an employer with 5 or more employees, and all domestic workers, shall be entitled to earn and use up to 40 hours of earned paid sick time in a year, unless the employer selects a higher limit. Employees of an employer with fewer than 5 employees, except for domestic workers, shall be entitled to earn and use up to 40 hours of unpaid, job-protected sick time a year, which shall be earned in the same manner as earned paid sick time in this section and available for all of the same purposes and under the same conditions are earned paid sick time in this Chapter. Nothing in this Chapter shall be construed to discourage or prohibit an employer from allowing the accrual of earned paid sick time at a faster rate or use of earned paid sick time at an earlier date than this Chapter requires.

(2) Employees who are exempt from overtime requirements under 29 U.S.C. § 213(a)(1) of the Federal Fair Labor Standards Act will be assumed to work 40 hours in each work week for purposes of earned paid sick time accrual unless their normal work week is less than 40 hours, in which case earned paid sick time accrues based upon that normal work week.

(3) For an employee other than a domestic worker, earned paid sick time as provided in this section shall begin to accrue at the commencement of employment or 90 days after this law goes into effect, whichever is later. An employer may provide all paid sick time that an employee is expected to accrue in a year at the beginning of the year.

(4) In addition to the paid day or days of rest to which a domestic worker is entitled pursuant to section 161(1) of the labor law of New York, such domestic worker shall also be entitled to two days of earned paid sick time as of the date that such domestic worker is entitled to such paid day or days of rest and annually thereafter, provided that notwithstanding any provision of this Act to the contrary, such two days of earned paid sick time shall be calculated in the same manner as the paid day or days of rest are calculated pursuant to the provisions of section 161(1) of the labor law of New York.

(5) An employee may use earned paid sick time as it is accrued, except that an employer may require an employee hired after the date this law goes into effect to wait until the 90th day after commencing employment before using accrued earned paid sick time, unless otherwise permitted by the employer.

(6) Earned paid sick time shall be carried over to the following year. Alternatively, in lieu of carryover of unused earned paid sick time from one year to the next, an employer may pay an employee for unused earned paid sick time at the end of a year and provide the employee with an amount of paid sick time that meets or exceeds the requirements of this Chapter that is available for the employee’s immediate use at the beginning of the subsequent year.

(7) Any employer with a paid leave policy, such as a paid time off policy, who makes available an amount of paid leave sufficient to meet the accrual requirements of this section that may be used for the same purposes and under the same conditions as earned paid sick time under this Chapter is not required to provide additional paid sick time.

Need to add a new section regarding employer sending a sick employee home.

(8) Nothing in this section shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement or other separation from employment for accrued earned paid sick time that has not been used.

(9) If an employee is transferred to a separate division, entity or location, but remains employed by the same employer, the employee is entitled to all earned paid sick time accrued at the prior division, entity or location and is entitled to use all earned paid sick time as provided in this section. When there is a separation from employment and the employee is rehired within 9 months of separation by the same employer, previously accrued earned paid sick time that had not been used shall be reinstated. Further, the employee shall be entitled to use accrued earned paid sick time and accrue additional earned paid sick time at the re-commencement of employment.

(10) When a different employer succeeds or takes the place of an existing employer, all employees of the original employer who remain employed by the successor employer are entitled to all earned paid sick time they accrued when employed by the original employer, and are entitled to use earned paid sick time previously accrued.

(11) At its discretion, an employer may loan earned paid sick time to an employee in advance of accrual by such employee.

(12) The provisions of this chapter do not apply to: (A) work study programs under 42 U.S.C. section 2753; (B) employees for the hours worked and compensated by or through qualified scholarships as defined in 26 U.S.C. section 117; or (C) independent contractors who do not meet the definition of employee under section 190(2) of the labor law of New York.

Sec. 700.39. Use of Earned Paid Sick Time.

(1) Earned paid sick time shall be provided to an employee by an employer for:

(A) An employee's mental or physical illness, injury or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; an employee's need for preventive medical care;

(B) Care of a family member with a mental or physical illness, injury or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; care of a family member who needs preventive medical care; or in the case of a child, to attend a school meeting or a meeting at a place where the child is receiving care necessitated by the child's health condition, disability, or related to the child's or family member's needs as a victim of a family offense matter, sexual offense, or stalking;

(C) Closure of the employee's place of business by order of a public official due to a public health emergency or an employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency, or care for oneself or a family member when it has been determined by the health authorities having jurisdiction or by a health care provider that the employee's or family member's presence in the community may jeopardize the health of others because of his or her exposure to a communicable disease,

whether or not the employee or family member has actually contracted the communicable disease; or

(D) Absence necessary due to an employee's or employee's family member's status as the victim of a family offense matter, sexual offense, or stalking, provided the leave is to allow the employee to obtain for the employee or the employee's family member:

(1) Medical attention needed to recover from physical or psychological injury or disability caused by a family offense matter, sexual offense, or stalking;

(2) Services from a victim services organization;

(3) Psychological or other counseling;

(4) Relocation or taking steps to secure an existing home due to a family offense matter, sexual offense, or stalking; or

(5) Legal services, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from the family offense matter, sexual offense, or stalking.

(2) Earned paid sick time shall be provided upon the request of an employee. Such request may be made orally, in writing, by electronic means or by any other means acceptable to the employer. When possible, the request shall include the expected duration of the absence.

(3) When the use of earned paid sick time is foreseeable, the employee shall make a good faith effort to provide notice of the need for such time to the employer in advance of the use of the earned paid sick time and shall make a reasonable effort to schedule the use of earned paid sick time in a manner that does not unduly disrupt the operations of the employer.

(4) An employer that requires notice of the need to use earned paid sick time where the need is not foreseeable shall provide a written policy that contains procedures for the employee to provide notice. An employer that has not provided to the employee a copy of its written policy for providing such notice shall not deny earned paid sick time to the employee based on non-compliance with such a policy.

(5) An employer may not require, as a condition of an employee's taking earned paid sick time, that the employee search for or find a replacement worker to cover the hours during which the employee is using earned paid sick time.

(6) Earned paid sick time may be used in an initial increment of four hours and thereafter in the smallest increment that the employers payroll system uses to account for absence or use of other time.

(7) For earned paid sick time of more than 3 consecutive work days, an employer may require reasonable documentation that the earned paid sick time has been used for a purpose covered by subsection (1). Documentation signed by a health care professional indicating that earned paid sick time is necessary shall be considered reasonable documentation for purposes of this section. In cases where an employee or employee's family member is a victim of a family offense matter, sexual offense, or stalking, one of the following types of documentation selected by the employee shall be considered reasonable documentation: (A) a police report indicating that the employee or employee's family member was a victim of a family offense matter, sexual offense, or stalking; (B) a court order protecting the employee or employee's family member from the perpetrator of a family offense matter, sexual offense, or stalking or other evidence from the

court or prosecuting attorney that the employee or employee's family member has appeared in court; (C) documentation from a medical professional, domestic violence advocate, health care provider, a member of the clergy or counselor that the employee or employee's family member was undergoing treatment for, or seeking assistance to address, physical or mental injuries or abuse resulting from a family offense matter, sexual offense, or stalking; or (D) an employee's written statement affirming the employee's or employee's family member's status as the victim of a family offense matter, sexual offense, or stalking, and that the leave was taken for one of the purposes of subdivision (1)(D) of this section. The employee's written statement, by itself, is reasonable documentation for absences under this paragraph. The written statement does not need to be in an affidavit format or notarized, but shall be legible if handwritten and shall reasonably make clear the employee's identity, and if applicable, the employee's relationship to the family member. An employer may not require that the documentation explain the nature of the illness or the details of the family offense matter, sexual offense, or stalking.

Sec. 700.40. Exercise of Rights Protected; Retaliatory Personnel Actions Prohibited.

(1) It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this Chapter.

(2) An employer shall not take retaliatory personnel action or discriminate against an employee or former employee because the person has exercised rights protected under this Chapter. Such rights include but are not limited to the right to request or use earned paid sick time pursuant to this Chapter; the right to file a complaint with a court or inform any person about any employer's alleged violation of this Chapter; and the right to inform any person of his or her potential rights under this Chapter.

(3) It shall be unlawful for an employer's absence control policy to count earned paid sick time taken under this Chapter as an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other adverse action.

(4) Protections of this section shall apply to any person who mistakenly but in good faith alleges violations of this Chapter.

(5) There shall be a rebuttable presumption of unlawful retaliatory personnel action under this section whenever an employer takes adverse action against a person within 90 days of when that person: (A) files a complaint with a court alleging a violation of any provision of this Chapter; (B) informs any person about an employer's alleged violation of this Chapter; (C) opposes any policy, practice, or act that is unlawful under this Chapter; or (D) informs any person of his or her rights under this Chapter.

(6) The protections of this section shall apply equally to employees who are entitled to earn and use unpaid, job-protected sick time under (1) of Section 685.21.

Sec. 700.41. Notice and Posting.

(1) Employers shall give employees written notice of the following at the commencement of employment or by 90 days after the law's effective date, whichever is later: employees are entitled to earned paid sick time and the amount of earned paid sick time, the terms of its use

guaranteed under this Chapter, that retaliatory personnel action against employees who request or use earned paid sick time is prohibited, and that each employee has the right to bring a civil action if earned paid sick time as required by this Chapter is denied by the employer or the employee is subjected to retaliatory personnel action for requesting or taking earned paid sick time.

(2) The notice required in (1) shall be in English, and the primary language spoken by that employee, provided that such notice has been provided by the County of Westchester.

(3) Employers shall display a poster that contains the information required in (1) in a conspicuous and accessible place in each establishment where such employees are employed. The poster displayed shall be in English, Chinese, French-Creole, Italian, Korean, Russian, Spanish, and any language deemed appropriate by the County of Westchester, provided that such poster has been provided by the County of Westchester.

(4) The County of Westchester shall create and make available to employers, in English, Chinese, French-Creole, Italian, Korean, Russian, Spanish, and any language deemed appropriate by the County of Westchester, model notices and posters that contain the information required under (1) for employers' use in complying with (1) and (3).

(5) An employer who willfully violates the notice and posting requirements of this section shall be subject to a civil fine in an amount not to exceed \$500 for each separate offense.

Sec. 700.42. Employer Records.

Employers shall retain records documenting hours worked by employees and earned paid sick time taken by employees, for a period of three years. When an issue arises as to an employee's entitlement to earned paid sick time under this section, if the employer does not maintain or retain adequate records documenting hours worked by the employee and earned paid sick time taken by the employee, it shall be presumed that the employer has violated the Chapter, absent clear and convincing evidence otherwise.

Sec. 700.43. Enforcement and Penalties; procedure.

a. The Commission shall enforce the provisions of this Article using multiple means of communication to receive complaints regarding non-compliance with this Article and investigate complaints received by the commission in a timely manner.

b. Except as otherwise provided in this Article, any person alleging a violation of this Article shall have the right within one year from the occurrence of the alleged violation, personally or by an attorney at law, to make, sign and file with the commission a verified complaint in writing which shall set forth the name and address of the person or entity alleged to have committed the violation of this Article complained of, the particulars thereof, and such other information as may be required by the commission. The complainant may utilize the services of the County Clerk's Office in order to have his or her signature notarized on any documents required in connection with the filing of a complaint for the purposes of this section. The commission shall promulgate and make available appropriate forms of complaints.

c. A complainant may withdraw a complaint at any time prior to the written response by the respondent to the complaint. Subsequent to the service of an answer by the respondent, the complainant may withdraw a complaint, provided, however, that, upon application by the respondent, the commission may preclude the complainant from subsequently filing any complaint with the commission based upon the same transactions or occurrences or series of transactions or occurrences as the complaint which was withdrawn.

d. The Executive Director of the commission may initiate a complaint alleging that a respondent has engaged in a pattern or series of violations as set forth in this Article affecting more than one person. Such complaint shall be signed and verified by the Executive Director and shall set forth the name and address of the person or entity alleged to have committed violations of this Article, the violations complained of and the particulars thereof, together with such other information as may be required by the commission. In any complaint initiated by the Executive Director, the relief awarded by the commission in the event of a finding that the respondent has committed violations of this Article complained of shall be limited to the relief authorized in paragraph h. of this section. The Executive Director may withdraw a complaint at any time prior to the service of an answer by the respondent, provided, however, that, upon application by the respondent, the commission may preclude the Executive Director from subsequently filing any complaint based upon the same transactions or occurrences or series of transactions or occurrences as the complaint which was withdrawn. The Executive Director shall serve notice of such withdrawal by mail upon persons aggrieved by the unlawful discriminatory practices complained of, to the extent that such persons are identified. If not otherwise precluded from doing so by the commission pursuant to paragraph b. of this section, such persons shall be permitted to file a complaint pursuant to paragraph a. of this section based upon the same transactions or occurrences or series of transactions or occurrences as the complaint which was withdrawn by the Executive Director. Such persons may file a complaint within the time period provided for in paragraph b or within 30 days of the service of withdrawal notice by the Executive Director, whichever is greater.

e. Within 30 days after the filing of any complaint, the commission shall serve a copy thereof by mail upon the respondent and all persons it deems to be necessary parties. Within 30 days of written notification of a complaint by the commission, the person or entity identified in the complaint shall provide the department with a written response and such further information related to the complaint as the commission may request. Within 60 days after a complaint is filed, the commission shall conduct an investigation of such complaint to determine whether a violation of this Article has occurred. If the commission determines that reasonable grounds exist to believe that a violation has occurred, it shall issue to the offending party or entity, within 180 days of the filing of the complaint, a Notice of Violation. The commission shall prescribe the form and wording of such Notice of Violation. If it finds with respect to any respondent that there is no reasonable grounds exist to believe that a violation of this Article has occurred, the commission shall issue an order dismissing the complaint as to such respondent, which order shall be served by mail upon all necessary parties to the proceeding.

f. The commission may, at any time after the filing of the complaint, endeavor to eliminate any alleged violation of this Article by any method of dispute resolution prescribed by rule of the commission including, but not limited to, mediation and conciliation. The commission may enter

into an agreement with any respondent resolving the complaint by agreement ("conciliation agreement"). Such conciliation agreement may include provisions requiring the respondent to refrain from violating any of the provisions of this Article in the future and may contain such further provisions as may be agreed upon by the commission and the respondent. Prior to entering into a conciliation agreement, the commission shall provide a copy thereof to the complainant by mail. If the complainant agrees to the terms of the agreement or fails to object to such terms within 15 days after it was mailed to the complainant, the commission may proceed to enter into the agreement. If the complainant desires to object to the agreement he or she shall specify such objections in writing and file same with the commission within 15 days after the proposed agreement was mailed to the complainant. Upon review of such objections, the commission may make such order as it, in its sole discretion, may find to be just and proper, including (a) an order approving the conciliation agreement; (b) an order dismissing the complaint; and (c) an order scheduling a hearing on the complaint. Any statement made by any complainant or by any respondent during any alternate dispute resolution process conducted by, or on behalf of, the commission shall be not be admitted into evidence during any hearing or proceeding before the commission, unless the party making the statement affirmatively authorizes, in writing, the admission of the statement. The failure or refusal of any party to participate in the alternate dispute resolution process, or the failure or refusal of any party to accept a recommendation by any mediator as to the resolution of the matter, shall not be admissible in any hearing or proceeding before the commission.

g. Where the commission has found that reasonable grounds exist to believe that a violation of this Article has occurred and has issued a Notice of Violation to the respondent and if alternative dispute resolution pursuant to paragraph e. above is either not initiated or does not resolve the complaint, the commission shall issue and cause to be issued and served a written notice requiring the respondent to appear at a public hearing upon reasonable notice at a time and place to be fixed by the commission and specified in the notice. If the respondent fails to appear for the hearing, the commission may enter the default and the hearing shall proceed on the evidence in support of the complaint. Such default may be set aside for good cause shown upon such terms and conditions as may be just.

h. A respondent may appear at such public hearing in person or otherwise, with or without counsel, cross examine witnesses and the complainant and submit testimony. Attempts at conciliation, or statements made during such attempts, shall not be received in evidence. The complainant and all parties shall be allowed to present testimony in person or by counsel and cross examine witnesses. Subpoenas shall be issued in the manner provided for in the civil practice law and rules to compel the attendance of witnesses or to require the production of any relevant evidence before the commission. The testimony taken at the hearing shall be under oath and a record made. Hearings may be conducted directly before the commission or the commission may refer the hearing to an administrative law judge to conduct the hearing and render a written report, containing recommendations as to findings and, if appropriate, relief, to the commission. To the extent practicable, administrative law judges should be attorneys-at-law admitted to practice law in the State of New York. At the conclusion of the hearing, or as soon thereafter as may be practicable, the commission shall issue its determination, stating its findings of fact.

i. In the event that the commission shall, after a hearing, determine that a respondent has committed a violation of this Article, it shall issue an order containing such of the following provisions as may, in the judgment of the commission, effectuate the purposes of this Article:

1. Requiring the payment of three times the wages that should have been paid under this Article or two hundred fifty dollars, whichever is greater for each instance of sick time taken by an employee but unlawfully not compensated by the employer;
2. Requiring the payment of five hundred dollars for each instance of sick time requested by an employee but unlawfully denied by the employer and not taken by the employee or unlawfully conditioned upon searching for or finding a replacement worker;
3. Awarding full compensation including wages and benefits lost and the payment of five hundred dollars and equitable relief as appropriate for each instance of unlawful retaliation not including discharge from employment;
4. Awarding full compensation including wages and benefits lost, payment of two thousand five hundred dollars and equitable relief, including reinstatement, as appropriate for each instance of unlawful discharge from employment;

j. Any entity or person found to be in violation of the sections 700.38, 700.39 and 700.40 of this Article shall be liable for a civil penalty payable to the County not to exceed five hundred dollars for the first violation and, for subsequent violations that occur within two years of any previous violation, not to exceed seven hundred and fifty dollars for the second violation and not to exceed one thousand dollars for each succeeding violation.

k. The commission shall establish rules of practice or procedure to govern, expedite and effectuate the foregoing procedure and its own actions thereunder, provided that such rules are not inconsistent with the provisions hereof.

l. The commission shall not have jurisdiction to entertain or initiate a complaint where:

1. The complainant or party aggrieved has initiated a civil action in any court based upon the same transaction or occurrence or series of transactions or occurrences which are the subject of the complaint filed or sought to be filed with the commission, unless such civil action has been voluntarily discontinued or withdrawn by the complainant;
2. The complainant or party aggrieved has filed a complaint, action or proceeding with any administrative agency of the State or the County of Westchester, based upon the same transaction or occurrence or series of transactions or occurrences which are the subject of the complaint filed or sought to be filed with the commission;

m. Any complainant, respondent or other person aggrieved by an order of the commission which is an order after a hearing, a an order imposing penalties, an order dismissing a complaint, or by an order of the commission which makes a final disposition of a complaint may obtain judicial review thereof under Article 78 of the Civil Practice Law and Rules, and the commission may obtain an order of court for its enforcement and for the enforcement of any other order of the commission, in a proceeding as provided in this section. Such proceeding shall be brought in the New York State Supreme Court, Westchester County, or in such other County wherein any person required in the order to take affirmative action resides or transacts business. Such proceeding shall be initiated by the filing of a notice of petition and petition in such court. Thereafter, at a time and in a manner to be specified by the court, the commission shall file with

the court a written transcript of the record of all prior proceedings. Upon the filing of a notice of petition and petition, the court shall have jurisdiction of the proceeding and of the questions determined therein.

Sec. 700.44. Civil Action.

(1) Any person who claims to have been aggrieved by a violation of this Chapter may commence a civil action in the appropriate court of jurisdiction not later than one (1) year after the occurrence or the termination of an alleged violation, whichever occurs last, to obtain appropriate relief with respect to such unlawful violation.

(2) In a civil action under this section, if the court finds an unlawful violation has occurred, the court may grant as relief, as it deems appropriate, any permanent or temporary injunction, the full amount of any unpaid earned sick time plus any actual damages suffered as the result of the employer's violation of this Chapter, liquidated damages, reasonable attorney's fees, and other legal or equitable relief as may be appropriate to remedy the violation, including, without limitation, reinstatement to employment and back pay.

Sec. 700.45. Confidentiality and Nondisclosure.

An employer may not require the disclosure of details relating to an employee's or his or her family member's medical condition or require the disclosure of details relating to an employee's or his or her family member's status as a victim of family offenses, sexual offenses or stalking as a condition of providing safe/sick time under this chapter. Health information about an employee or an employee's family member, and information concerning an employee's or his or her family member's status or perceived status as a victim of family offenses, sexual offenses or stalking obtained solely for the purposes of utilizing safe/sick time pursuant to this chapter, shall be treated as confidential and shall not be disclosed except by the affected employee, with the written permission of the affected employee or as required by law, unless otherwise required by law. Provided, however, that nothing in this section shall preclude an employer from considering information provided in connection with a request for safe leave in connection with a request for reasonable accommodation pursuant to Section 700.03(8) of the Laws of Westchester County.

Unless as otherwise required by law, any health or safety information possessed by an employer regarding an employee or employee's family member must:

(1) be maintained on a separate form and in a separate file from other personnel information;

(2) be treated as confidential medical records; and

(3) not be disclosed except to the affected employee or with the express written permission of the affected employee.

**Sec. 700.46. Encouragement of More Generous Earned Paid Sick Leave Policies;
No Effect on More Generous Policies or Laws.**

(1) Nothing in this Chapter shall be construed to discourage or prohibit an employer from the adoption or retention of an earned paid sick time policy more generous than the one required herein.

(2) Nothing in this Chapter shall be construed as diminishing the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan or other agreement providing more generous paid sick time to an employee than required herein. Nothing in this Chapter shall be construed as diminishing the rights of public employees regarding paid sick time or use of paid sick time as provided in the laws of New York State or Westchester County pertaining to public employees.

Sec. 700.47. Other Legal Requirements.

This Chapter provides minimum requirements pertaining to earned paid sick time and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater accrual or use by employees of earned paid sick time or that extends other protections to employees. In addition, nothing in this Chapter shall be construed to prevent, interfere or conflict with any rights of an employee under the New York Disability Benefits Law and Paid Family Leave Benefits Law, N.Y. Workers' Comp. Law § 200 et seq.

Sec. 700.48. Public Education and Outreach.

The County of Westchester shall develop and implement a multilingual outreach program to inform employees, parents and persons who are under the care of a health care provider about the availability of earned paid sick time under this Chapter. This program shall include the distribution of notices and other written materials in English and Spanish and any language deemed appropriate by the County to child care and elder care providers, domestic violence shelters, schools, hospitals, community health centers and other health care providers in Westchester County.

Sec. 700.49. Collective Bargaining Agreement Opt Out.

a. The provisions of this chapter shall not apply to any employee covered by a valid collective bargaining agreement if (i) such provisions are expressly waived in such collective bargaining agreement and (ii) such agreement provides for a comparable benefit for the employees covered by such agreement in the form of paid days off; such paid days off shall be in the form of leave, compensation, other employee benefits, or some combination thereof. Comparable benefits shall include, but are not limited to, vacation time, personal time, sick time, and holiday and Sunday time pay at premium rates.

b. Notwithstanding subdivision a of this section, the provisions of this chapter shall not apply to any employee in the construction or grocery industry covered by a valid collective bargaining agreement if such provisions are expressly waived in such collective bargaining agreement.

Sec. 700.50. Severability.

If any provision of this Chapter or application thereof to any person or circumstance is judged invalid, the invalidity shall not affect other provisions or applications of the Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared severable.

§2. This Local Law shall take effect 180 days after its adoption. In the case of employees covered by a collective bargaining agreement in effect on the effective date prescribed herein, this Local Law shall apply beginning on the stated expiration date in the collective bargaining agreement.

TO: HONORABLE BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee has reviewed “A LOCAL LAW amending the Laws of Westchester County by adopting a new Article III Chapter 700 providing paid sick leave for certain employees.”

Your Committee is aware that roughly 36% of workers in Westchester County lack paid sick time, and low-income and part-time workers are especially unlikely to be covered. Access to paid sick time promotes safe and healthy work environments by reducing the spread of illness, health care costs, and work-family conflict by providing greater flexibility to fulfill caregiving responsibilities.

Your Committee is informed that workers of color are less likely to have access, with Hispanic workers substantially less likely to have access: 50% of Hispanic, 33% of Black, and 32% of Asian workers in Westchester County lack access to paid sick time. Additionally, state and local government workers are much more likely than private sector workers to have paid sick time: 87% of state and local government workers have access to paid sick time in Westchester County compared with 60% of private sector workers.

Your Committee notes that research shows that workers without access to paid sick time are three times more likely to forgo treatment for themselves and almost two times more likely to forgo care for a family member compared with workers who have paid sick time. Further, a recent study found that employers who provided paid sick time to their employees reported fewer occupational injuries among employees than those who did not have paid sick time coverage.

Your Committee is also aware that paid sick time allows parents to provide personal care for their sick children. Parental care makes children's recoveries faster and can prevent future health problems. When parents don't have paid sick time, they are more than twice as likely as parents with paid sick time to send a sick child to school or daycare, spreading illness, and five times as likely to report taking their child or a family member to the emergency room because they were unable to take time off work during normal work hours.

Your Committee further informed that paid sick time will reduce recovery time and decrease the likelihood of spreading illness to other members of the workforce and to the public. During the H1N1 flu pandemic of 2009, researchers estimate that 5 million cases of the flu would have been prevented if a federal law providing paid sick time had been in place.

Paid sick time will reduce health care expenditures. Emergency room visits increase health care costs on taxpayers. Nationally, providing all workers with paid sick time would reduce visits to hospital emergency departments and save \$1 billion per year in medical costs, including more than \$500 million in savings to publicly funded health insurance programs such as Medicare, Medicaid, and SCHIP. As baby boomers age, more and more elderly individuals will need support from family caregivers to lead healthy, independent lives. Paid sick time allows employees to take off work in order to care for an elderly family member, including taking the individual to a doctor's appointment or providing care during a health emergency.

Your Committee is further informed that providing paid sick time is good for a company's bottom line. Researchers estimate that the total cost of "presenteeism," where employees go to work sick and are less productive, is more than \$150 billion per year. Sick workers also spread disease to their co-workers. Paid sick time also results in reduced voluntary and involuntary turnover. It costs an employer 150% of a salaried employee's yearly salary to replace him or her. For an hourly employee, turnover costs the employer anywhere from 50% to 75% of the employee's annual pay. Since enacting a paid sick time law in 2007, San Francisco has performed better than surrounding counties in terms of total employment. Ensuring that all employers provide paid sick time, levels the playing field for employers who don't already provide this benefit and lets companies choose employees from a larger pool of people, allowing everyone to benefit.

Your Committee additionally notes that once paid sick time laws are enacted they are popular with both business and workers. For example, businesses in New York City look very positively on the law now that it has been in effect for several years. 86% of employers surveyed said they had a positive view of the law and a whopping 98% said they had seen no instances of abuse. Golden Gate Restaurant Association, in San Francisco, while originally an opponent, has since said the paid sick time law was successful and “the best public policy for the least cost,” also acknowledging that employees have not abused paid sick leave.

Your Committee is aware that since 2006, 40 jurisdictions, including 7 states, have enacted laws requiring employers to provide paid sick time to their employees. None of those jurisdictions have experienced negative economic consequences as a result of their paid sick time law. New York City showed steady job growth in the year after the law went into effect; San Francisco showed stronger job growth than in surrounding counties in the year after their law went into effect; Washington D.C. and Seattle saw no negative economic effects following implementation of their paid sick time law in either job loss or movement of businesses out of the city.

Your Committee further notes that Westchester County workers in service, transportation, and manufacturing occupations are less likely to have paid sick time. 54% in service occupations and 47% in transportation and manufacturing occupations do not have access to this benefit. This includes food service workers and home health aides, two groups which can very easily, and rapidly, spread disease.

As you know, this Honorable Board must comply with the requirements of the State Environmental Quality Review Act ("SEQRA"). Your Committee is advised that the Department of Planning has reviewed the applicable SEQRA regulations, and has concluded that this proposed Act _____. Your Committee concurs with that conclusion.

An affirmative vote of a majority of the voting strength of your Honorable Board is required for approval of this Act.

In light of the aforementioned, your Committee, after careful consideration, recommends the adoption of this local law.

Dated: _____, 2017

White Plains, New York

COMMITTEE ON

RESOLUTION NO. ____ – 2018

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. ____ - 2018, entitled “A LOCAL LAW amending the Laws of Westchester County by adopting a new Article III Chapter 700 providing paid sick leave for certain employees.” The public hearing will be held at ____m. on the ____ day of _____, 2018 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.

Attachment: LL - Paid sick leave for Certain Employees - DRAFT 2 (10623 : Paid sick leave for Certain Employees)

LOCAL LAW INTRO. NO. - 2018

A LOCAL LAW amending the Laws of Westchester County to add a new Chapter 585 which will provide paid sick leave for certain employees.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. A new Chapter 585 is hereby added to the Laws of Westchester County to read as follows:

Chapter 585 - EARNED SICK LEAVE LAW

Sec. 585.01. Short Title.

Sec. 585.02. Definitions.

Sec. 585.03. Accrual of Earned Sick Time.

Sec. 585.04. Employer's Options; Collective Bargaining Agreements.

Sec. 585.05. Protections for Accrued Earned Sick Time.

Sec. 585.06. Use of Earned Paid Sick Time.

**Sec. 585.07. Procedures Relating to the Request to Use
Earned Sick Time.**

**Sec. 585.08. Exercise of Rights Protected;
Retaliatory Personnel Actions Prohibited.**

Sec. 585.09. Notice and Posting.

Sec. 585.10. Employer Records.

Sec. 585.11. Civil Action and Penalties.

Sec. 585.12. Confidentiality and Nondisclosure.

Sec. 585.13. Other Legal Requirements.

Sec. 585.14. Public Education and Outreach.

Sec. 585.15. Reverse Preemption.

Sec. 585.16. Severability.

Sec. 585.01. Short Title.

This Chapter shall be known as and may be cited as the "Earned Sick Leave Law."

Sec. 585.02. Definitions.

For Purposes of this Chapter:

1. "Calendar year" shall mean from January 1 to December 31 in any given year.
2. "Child" shall mean, regardless of age, a biological, adopted, foster child or legal ward.
3. "Domestic partner" shall mean any "domestic partner" as defined under New York State Workers' Compensation Law section 4(1).
4. "Domestic worker" shall mean any domestic worker as defined in section 2(16) of the New York State Labor Law who is employed for hire within the Westchester County for more than eighty hours in a calendar year on a full-time or part-time basis.
5. "Earned sick time" means time that is compensated at the same hourly rate as the employee normally earns during hours worked for the purposes provided in Section 585.06 of this Chapter.
6. "Employee" shall any person employed for hire by an employer in any employment within Westchester County for more than 80 hours in a calendar year who performs work on a full-time or part-time basis, including work performed in subsidized private sector and not-for-profit employment programs, but not including:
 - a. work performed as a participant in a work experience program established by a social services district;
 - b. work performed pursuant to work study programs under 42 U.S.C. section 2753;
 - c. work performed by employees compensated by or through qualified scholarships as defined in 26 U.S.C. section 117.
7. "Employer" shall mean any "employer" as defined in section 190(3) of New York State Labor Law, except that an employer includes Westchester County government.
8. "Family member" means: an employee's child, spouse, domestic partner, parent, sibling, grandchild or grandparent; and the child or parent of an employee's spouse or domestic partner
9. "Health care professional" means any person licensed under Federal or State law to provide medical or emergency services, including but not limited to doctors, nurses, midwives and emergency room personnel.
10. "Parent" shall mean a biological, foster, step- or adoptive parent, or a legal guardian of an employee.
11. "Retaliatory personnel action" means denial of any right guaranteed under this Chapter or any threat, discharge, suspension, demotion, reduction of hours, reporting or threatening to report

an employee's suspected citizenship or immigration status, or the suspected citizenship or immigration status of a family member of the employee to a federal, state or local agency, or any other adverse action against an employee for the exercise of any right guaranteed herein including any sanctions against an employee who is the recipient of public benefits for rights guaranteed under this Chapter. Retaliation shall also include interference with or punishment for in any manner participating in or assisting an investigation, proceeding or hearing under this Chapter.

12. "Year", other than "calendar year" means a regular and consecutive 12-month period as determined by the employer.

Sec. 585.03. Accrual of Earned Sick Time.

1. At the commencement of employment or 90 days after this law goes into effect, whichever is later, all employees, except for domestic workers, shall accrue a minimum of one hour of sick time for every 30 hours worked.
2. Employees of an employer with 5 or more employees shall be entitled to earn and use up to 40 hours of paid sick time in a year, unless the employer selects a higher limit. Employees of an employer with fewer than 5 employees shall be entitled to earn and use up to 40 hours of unpaid sick time in a year. In determining the number of employees performing work for an employer pursuant to this subsection, all employees performing work for compensation on a full-time, part-time or temporary basis shall be counted, provided that where the number of employees who work for an employer per week fluctuates, the number of employees for the current calendar year may be based upon the average number of employees who worked per week during the preceding calendar year.
3. Domestic workers shall accrue a minimum of one hour of sick time for every seven days worked, which shall be in addition to the one day of rest provided for in New York State Labor Law section 161(1). All domestic workers employed by any employer, regardless of the number of domestic workers employed, shall be entitled to earn and use up to 40 hours of earned paid sick time in a year, unless the employer selects a higher limit.
4. Forty (40) hours is the maximum amount of sick leave to be accrued in a year.

Sec. 585.04. Employer's Options: Collective Bargaining Agreements.

1. Nothing in this Chapter shall be construed to discourage or prohibit an employer from allowing the accrual of earned sick time at a faster rate than provided herein; or from providing more sick time than provided herein.
2. In lieu of calculating the accrual of earned sick time, an employer shall have the option to provide an employee with sick time and personal time which if combined equals forty (40) hours or more per calendar year, or the year as determined by the employer (i.e., anniversary date). Such an employer shall be in compliance with this law, provided that

the employee is permitted to take time as needed for sick time, with no advance notice necessary.

3. If an employer has employees whose sick/personal time are covered by a valid collective bargaining agreement that does not meet the requirements set forth in subsection 2 above, the employer must comply with the provisions of this law unless such provisions are expressly waived in the collective bargaining agreement.

Sec. 585.05. Protections for Earned Sick Leave.

1. Earned sick time that has not been utilized can be carried over to the following year, provided that the maximum amount of sick leave for any given year remains at forty (40) hours.
2. If any employee, including domestic workers, is transferred to a separate division, entity or location within Westchester County, but remains employed by the same employer, the employee is entitled to all unused earned sick time accrued at the prior division, entity or location provided that said prior division, entity or location is also located in Westchester County.
3. When there is a separation from employment and the employee is rehired within 9 months of separation by the same employer, previously accrued earned sick time that had not been used shall be reinstated.
4. When one employer is succeeded by another employer, all employees of the original employer who remain employed by the successor employer are entitled to all the unused earned paid sick time they accrued when employed by the original employer.

Sec. 585.06. Use of Earned Sick Time.

1. All earned sick time may be used for:
 - a. An employee's mental or physical illness, injury or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; an employee's need for preventive medical care;
 - b. The care of a family member with a mental or physical illness, injury or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; and care of a family member who needs preventive medical care;
 - c. Any employer who is willing to pay for the use of an employee's earned sick time, may authorize an employee to utilize sick time if the employer reasonably determines that an employee's mental or physical illness, injury or health condition or an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition requires immediate attention;

- d. The care for an employee or family member when it has been determined by the public health authorities having jurisdiction that the employee's or family member's presence in the community may jeopardize the health of others because of his or her exposure to a communicable disease where or not the employee or family member has actually contracted the communicable disease;
- e. The closure of the employee's place of business by order of a public official due to a public health emergency;
- f. The closure of a day care or elementary or secondary school attended by an employee's child where such closure was due to a public health emergency.
- 2. An employee's ability to use earned sick time shall be delayed until the employee has worked for the employer for 90 days.
- 3. Earned sick time may be used in an initial increment of four hours and thereafter in the smallest increment that the employer's payroll system uses to account for absence or use of other time.
- 4. At its discretion, an employer may loan earned sick time to an employee in advance of accrual by such employee.
- 5. Nothing in this section shall be construed as requiring an employer to provide financial or other reimbursement to an employee upon the employee's termination, resignation, retirement or other separation from employment for unused accrued earned sick time.

Sec. 585.07. Procedures Relating to the Request to Use Earned Sick Time.

- 1. Earned sick time shall be provided upon the request of an employee. Such request may be made orally, in writing, by electronic means or by any other means acceptable to the employer. When possible, the request shall include the expected duration of the absence.
- 2. When the use of earned sick time is foreseeable, the employee shall make a good faith effort to provide notice to the employer in advance and shall make a reasonable effort to schedule the use of earned sick time in a manner that does not unduly disrupt the operations of the employer.
- 3. An employer that requires notice of the need to use earned sick time shall provide a written policy that contains the procedures for the employee to provide notice. An employer that has not provided a copy of its written policy to the employee shall not deny earned sick time to the employee based on noncompliance with such policy.

4. An employer may not require, as a condition of an employee's use of earned sick time, that the employee find another employee to work during the time of the employee's absence.
5. For earned sick time of more than 3 consecutive work days, an employer may require reasonable documentation that the earned sick time has been used for a purpose covered by section 585.06 above. Documentation signed by a health care professional indicating that earned sick time is necessary shall be considered reasonable documentation for purposes of this section.

Sec. 585.08. Exercise of Rights Protected; Retaliatory Personnel Actions Prohibited.

1. It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, the right to use earned sick leave.
2. It shall be unlawful for an employer to include used earned sick time as an absence that may lead to or result in discipline, discharge, demotion, or suspension.
3. An employer shall not take retaliatory personnel action or discriminate against an employee because the employee has requested to use or has used earned sick time.
4. An employer shall not take retaliatory personnel action or discriminate against an employee that has filed a complaint regarding an employer's alleged violation of this Earned Sick Leave Law.
5. An employer shall not take retaliatory personnel action or discriminate against an employee that has informed another employee of his or her rights under the Earned Sick Leave Law.
6. There shall be a rebuttable presumption of unlawful retaliatory personnel action whenever an employer takes adverse action against an employee within 90 days of the filing of a complaint regarding an employer's alleged violation of this Earned Sick Leave Law.

Sec. 585.09. Notice and Posting.

1. At the commencement of employment or within 90 days of the effective date of this law, whichever is later, all employers shall give employees a copy of the Earned Sick Leave Law and written notice of how the law applies to that employee.
2. Employers shall display a copy of the Earned Sick Leave Law and a poster in English, Spanish and any other language deemed appropriate by the County of Westchester, in a conspicuous location accessible to the employee.

3. An employer who willfully violates the notice and posting requirements of this section shall be subject to a civil fine in an amount not to exceed \$500 for each separate offense.

Sec. 585.10. Employer Records.

1. Employers shall retain records clearly documenting the hours worked by employees and earned sick time accrued and taken by employees, for a period of three years.
2. There shall be a rebuttable presumption of a violation of the Earned Sick Leave Law for an employer's failure to retain records in accordance with subdivision 1.

Sec. 585.11. Civil Action and Penalties.

1. Any person who claims to have been aggrieved by a violation of this Chapter may commence a civil action in the appropriate court of jurisdiction not later than one (1) year after the occurrence of an alleged violation.
2. If the court finds an unlawful violation has occurred, the court may:
 - a. Require the employer to pay three times the wages that should have been paid under this Chapter or two hundred fifty dollars, whichever is greater for each instance of sick time taken by an employee but unlawfully not compensated by the employer;
 - b. Require the employer to pay five hundred dollars for each instance of sick time requested by an employee but unlawfully denied by the employer and not taken by the employee or unlawfully conditioned upon searching for or finding another employee to work;
 - c. Grant such additional as relief, as it deems appropriate, the full amount of any unpaid earned sick time plus any actual damages suffered as the result of the employer's violation of the Earned Sick Leave Law, reasonable attorney's fees, and other legal or equitable relief as may be appropriate, without limitation, reinstatement to employment and back pay.

Sec. 585.12. Confidentiality and Nondisclosure.

1. Health information about an employee or family member obtained solely for the purposes of utilizing sick time shall be treated as confidential and shall not be disclosed except with the written permission of the affected employee, unless such disclosure is otherwise required by law.

2. Any health or safety information possessed by an employer regarding an employee or employee's family member must be maintained on a separate form and in a separate file from other personnel information.

Sec. 585.13. Other Legal Requirements.

This Chapter provides minimum requirements pertaining to earned paid sick time and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, or policy that provides for greater accrual or use by employees of earned sick time or that extends other protections to employees. In addition, nothing in this Chapter shall be construed to prevent, interfere or conflict with any rights of an employee under the New York Disability Benefits Law and Paid Family Leave Benefits Law, N.Y. Workers' Comp. Law § 200 et seq.

Sec. 585.14. Public Education and Outreach.

The Westchester County Human Rights Commission shall develop and implement a multilingual outreach program to inform employees, parents and persons who are under the care of a health care provider about the availability of earned paid sick time under this Chapter. This program shall include the distribution of notices and other written materials in English and Spanish and any language deemed appropriate by the Westchester County Human Rights Commission to child care and elder care providers, domestic violence shelters, schools, hospitals, community health centers and other health care providers in Westchester County.

Sec. 585.15. Reverse Preemption.

This local law shall be null and void on the day that Statewide or Federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent State or Federal administrative agency issues and promulgates regulations preempting such action by the County of Westchester. The Board of Legislators may determine via resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

Sec. 585.16. Severability.

If any provision of this Chapter or application thereof to any person or circumstance is judged invalid, the invalidity shall not affect other provisions or applications of the Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared severable.

§2. This Local Law shall take effect 180 days after its adoption, except that in the case of employers who have employees covered by a collective bargaining agreement as specified in Section 585.04(3), this local law shall apply beginning on the stated expiration date in the collective bargaining agreement.

5-17

Attachment: LL - Paid sick leave for Certain Employees - DRAFT 2 (10623 : Paid sick leave for Certain Employees)

LOCAL LAW INTRO. NO. - 2018

A LOCAL LAW amending the Laws of Westchester County to add a new Chapter 585 which will provide paid sick leave for certain employees.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. A new Chapter 585 is hereby added to the Laws of Westchester County to read as follows:

Chapter 585 - EARNED SICK LEAVE LAW

- Sec. 585.01. Short Title.**
- Sec. 585.02. Definitions.**
- Sec. 585.03. Accrual of Earned Sick Time.**
- Sec. 585.04. Employer's Options; Collective Bargaining Agreements.**
- Sec. 585.05. Protections for Accrued Earned Sick Time.**
- Sec. 585.06. Use of Earned Paid Sick Time.**
- Sec. 585.07. Procedures Relating to the Request to Use
Earned Sick Time.**
- Sec. 585.08. Exercise of Rights Protected;
Retaliatory Personnel Actions Prohibited.**
- Sec. 585.09. Notice and Posting.**
- Sec. 585.10. Employer Records.**
- Sec. 585.11. Civil Action and Penalties.**
- Sec. 585.12. Confidentiality and Nondisclosure.**
- Sec. 585.13. Other Legal Requirements.**
- Sec. 585.14. Public Education and Outreach.**
- Sec. 585.15. Reverse Preemption.**
- Sec. 585.16. Severability.**

Sec. 585.01. Short Title.

This Chapter shall be known as and may be cited as the "Earned Sick Leave Law."

Sec. 585.02. Definitions.

For Purposes of this Chapter:

1. "Calendar year" shall mean from January 1 to December 31 in any given year.
2. "Child" shall mean, regardless of age, a biological, adopted, foster child, legal ward or a person to whom the employee stands in *loco parentis* or to whom the employee stood in *loco parentis* when that person was a minor.
3. "Domestic partner" shall mean any "domestic partner" as defined under New York State Workers' Compensation Law section 4(1).
4. "Domestic worker" shall mean any domestic worker as defined in section 2(16) of the New York State Labor Law who is employed for hire within the Westchester County for more than eighty hours in a calendar year on a full-time or part-time basis.
5. "Earned sick time" means time that is accrued in accordance with 585.03 or calculated in accordance with 585.04 to be utilized for the purposes provided in Section 585.06 of this Chapter.
6. "Employee" shall any person employed for hire by an employer in any employment within Westchester County for more than 80 hours in a calendar year who performs work on a full-time or part-time basis, including work performed in subsidized private sector and not-for-profit employment programs, but not including:
 - a. work performed as a participant in a work experience program established by a social services district;
 - b. work performed pursuant to work study programs under 42 U.S.C. section 2753;
 - c. work performed by employees compensated by or through qualified scholarships as defined in 26 U.S.C. section 117.
7. "Employer" shall mean any "employer" as defined in section 190(3) of New York State Labor Law, except that an employer includes Westchester County government.
8. "Family member" means: an employee's child, spouse, domestic partner, parent, sibling, grandchild or grandparent; and the child or parent of an employee's spouse, domestic partner or household member. For purposes of this subsection, "household member" shall mean (i) persons related by consanguinity or affinity; (ii) persons legally married to or in a domestic partnership with one another; (iii) persons formerly married to or in a domestic partnership with one another regardless of whether they still reside in the same household; (iv) persons who have a child in common, regardless of whether such persons have been married or domestic partners or have lived together at any time; and (v) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time.

9. "Health care professional" means any person licensed under Federal or State law to provide medical or emergency services, including but not limited to doctors, nurses, midwives and emergency room personnel.
10. "Parent" shall mean a biological, foster, step- or adoptive parent, a legal guardian of an employee or a person who stood in loco parentis when the employee was a minor.
11. "Retaliatory personnel action" means denial of any right guaranteed under this Chapter or any threat, discharge, suspension, demotion, reduction of hours, reporting or threatening to report an employee's suspected citizenship or immigration status, or the suspected citizenship or immigration status of a family member of the employee to a federal, state or local agency, or any other adverse action against an employee for the exercise of any right guaranteed herein including any sanctions against an employee who is the recipient of public benefits for rights guaranteed under this Chapter. Retaliation shall also include interference with or punishment for in any manner participating in or assisting an investigation, proceeding or hearing under this Chapter.
12. "Year", other than "calendar year" means a regular and consecutive 12-month period as determined by the employer.

Sec. 585.03. Accrual of Earned Sick Time.

1. At the commencement of employment or 90 days after this law goes into effect, whichever is later, all employees, except for domestic workers, shall accrue a minimum of one hour of sick time for every 30 hours worked.
2. Employees of an employer with 5 or more employees shall be entitled to earn and use up to 40 hours of paid sick time in a year, unless the employer selects a higher limit. Paid sick time shall be compensated at the same hourly rate as the employee normally earns during hours worked, but in no case shall this hourly amount be less than that provided under section 652(1) of the labor law of New York. Employees of an employer with fewer than 5 employees shall be entitled to earn and use up to 40 hours of unpaid sick time in a year. In determining the number of employees performing work for an employer pursuant to this subsection, all employees performing work for compensation on a full-time, part-time or temporary basis shall be counted, provided that where the number of employees who work for an employer per week fluctuates, the number of employees for the current calendar year may be based upon the average number of employees who worked per week during the preceding calendar year.
3. Domestic workers shall accrue a minimum of one hour of sick time for every seven days worked, which shall be in addition to the one day of rest provided for in New York State Labor Law section 161(1). All domestic workers employed by any employer, regardless of the number of domestic workers employed, shall be entitled to earn and use up to 40 hours of earned paid sick time in a year, unless the employer selects a higher limit.
4. Forty (40) hours is the maximum amount of sick leave to be accrued in a year.

Sec. 585.04. Employer's Options; Collective Bargaining Agreements.

1. Nothing in this Chapter shall be construed to discourage or prohibit an employer from allowing the accrual of earned sick time at a faster rate than provided herein; or from providing more sick time than provided herein.
2. In lieu of calculating the accrual of earned sick time, an employer shall have the option to provide an employee with sick time and personal time which if combined equals forty (40) hours or more per calendar year, or the year as determined by the employer (i.e., anniversary date). Such an employer shall be in compliance with this law, provided that the employee is permitted to take time as needed for sick time, with no advance notice necessary and no restrictions are placed on use of paid sick time other than those contained in this Chapter.
3. If an employer has employees whose sick/personal time are covered by a valid collective bargaining agreement that does not meet the requirements set forth in subsection 2 above, the employer must comply with the provisions of this law unless such provisions are expressly waived in the collective bargaining agreement.

Sec. 585.05. Protections for Earned Sick Leave.

1. Earned sick time that has not been utilized can be carried over to the following year, provided that the maximum amount of sick leave for any given year remains at forty (40) hours.
2. If any employee, including domestic workers, is transferred to a separate division, entity or location within Westchester County, but remains employed by the same employer, the employee is entitled to all unused earned sick time accrued at the prior division, entity or location provided that said prior division, entity or location is also located in Westchester County.
3. When there is a separation from employment and the employee is rehired within 9 months of separation by the same employer, previously accrued earned sick time that had not been used shall be reinstated.
4. When one employer is succeeded by another employer, all employees of the original employer who remain employed by the successor employer are entitled to all the unused earned paid sick time they accrued when employed by the original employer.

Sec. 585.06. Use of Earned Sick Time.

1. All earned sick time may be used for:
 - a. An employee's mental or physical illness, injury or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; an employee's need for preventive medical care;

- b. The care of a family member with a mental or physical illness, injury or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; and care of a family member who needs preventive medical care;
 - c. Any employer who is willing to pay for the use of an employee's earned sick time, may authorize an employee to utilize sick time if the employer reasonably determines that an employee's mental or physical illness, injury or health condition or an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition requires immediate attention;
 - d. The care for an employee or family member when it has been determined by the public health authorities having jurisdiction that the employee's or family member's presence in the community may jeopardize the health of others because of his or her exposure to a communicable disease where or not the employee or family member has actually contracted the communicable disease;
 - e. The closure of the employee's place of business by order of a public official due to a public health emergency;
 - f. The closure of a day care or elementary or secondary school attended by an employee's child where such closure was due to a public health emergency.
2. An employee's ability to use earned sick time may be delayed until the employee has worked for the employer for 90 days.
 3. In the event that an employee only needs to use a portion of a day of earned sick time, an employee may use a minimum of four hours and, if more time is needed, then the smallest increment that the employer's payroll system uses to account for absence or use of other time.
 4. At its discretion, an employer may loan earned sick time to an employee in advance of accrual by such employee.
 5. Nothing in this section shall be construed as requiring an employer to provide financial or other reimbursement to an employee upon the employee's termination, resignation, retirement or other separation from employment for unused accrued earned sick time.

Sec. 585.07. Procedures Relating to the Request to Use Earned Sick Time.

1. Earned sick time shall be provided upon the request of an employee. Such request may be made orally, in writing, by electronic means or by any other means acceptable to the employer. When possible, the request shall include the expected duration of the absence.

2. When the use of earned sick time is foreseeable, the employee shall make a good faith effort to provide notice to the employer in advance and shall make a reasonable effort to schedule the use of earned sick time in a manner that does not unduly disrupt the operations of the employer.
3. An employer that requires notice of the need to use earned sick time shall provide a written policy that contains the procedures for the employee to provide notice. An employer that has not provided a copy of its written policy to the employee shall not deny earned sick time to the employee based on noncompliance with such policy.
4. An employer may not require, as a condition of an employee's use of earned sick time, that the employee find another employee to work during the time of the employee's absence.
5. For earned sick time of more than 3 consecutive work days, an employer may require the employee to provide reasonable documentation that the earned sick time has been used for a purpose covered by section 585.06 above. Documentation provided by the employee and signed by a health care professional indicating that earned sick time is necessary shall be considered reasonable documentation for purposes of this section. The employer cannot require a doctor to provide a note containing information in violation of HIPAA.

Sec. 585.08. Exercise of Rights Protected: Retaliatory Personnel Actions Prohibited.

1. It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, the right to use earned sick leave.
2. It shall be unlawful for an employer to include used earned sick time as an absence that may lead to or result in discipline, discharge, demotion, or suspension.
3. An employer shall not take retaliatory personnel action or discriminate against an employee because the employee has requested to use or has used earned sick time.
4. An employer shall not take retaliatory personnel action or discriminate against an employee that has filed a complaint regarding an employer's alleged violation of this Earned Sick Leave Law.
5. An employer shall not take retaliatory personnel action or discriminate against an employee that has informed another employee of his or her rights under the Earned Sick Leave Law.
6. There shall be a rebuttable presumption of unlawful retaliatory personnel action whenever an employer takes adverse action against an employee within 90 days of the filing of a complaint regarding an employer's alleged violation of this Earned Sick Leave Law.

Sec. 585.09. Notice and Posting.

1. At the commencement of employment or within 90 days of the effective date of this law, whichever is later, all employers shall give employees a copy of the Earned Sick Leave Law and written notice of how the law applies to that employee.
2. Employers shall display a copy of the Earned Sick Leave Law and a poster in English, Spanish and any other language deemed appropriate by the County of Westchester, in a conspicuous location accessible to the employee.
3. An employer who willfully violates the notice and posting requirements of this section shall be subject to a civil fine in an amount not to exceed \$500 for each separate offense.

Sec. 585.10. Employer Records.

1. Employers shall retain records clearly documenting the hours worked by employees and earned sick time accrued and taken by employees, for a period of three years.
2. There shall be a rebuttable presumption of a violation of the Earned Sick Leave Law for an employer's failure to retain records in accordance with subdivision 1.

Sec. 585.11. Civil Action and Penalties.

1. Any person who claims to have been aggrieved by a violation of this Chapter may commence a civil action in the appropriate court of jurisdiction not later than one (1) year after the occurrence of an alleged violation.
2. If the court finds an unlawful violation has occurred, the court may:
 - a. Require the employer to pay three times the wages that should have been paid under this Chapter or two hundred fifty dollars, whichever is greater for each instance of sick time taken by an employee but unlawfully not compensated by the employer;
 - b. Require the employer to pay five hundred dollars for each instance of sick time requested by an employee but unlawfully denied by the employer and not taken by the employee or unlawfully conditioned upon searching for or finding another employee to work;
 - c. Grant such additional as relief, as it deems appropriate, the full amount of any unpaid earned sick time plus any actual damages suffered as the result of the employer's violation of the Earned Sick Leave Law, reasonable attorney's fees, and other legal or equitable relief as may be appropriate, without limitation, reinstatement to employment and back pay.

Sec. 585.12. Confidentiality and Nondisclosure.

1. Health information about an employee or family member obtained solely for the purposes of utilizing sick time shall be treated as confidential and shall not be disclosed except with the written permission of the affected employee, unless such disclosure is otherwise required by law.
2. Any health or safety information possessed by an employer regarding an employee or employee's family member must be maintained on a separate form and in a separate file from other personnel information.

Sec. 585.13. Other Legal Requirements.

This Chapter provides minimum requirements pertaining to earned paid sick time and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, or policy that provides for greater accrual or use by employees of earned sick time or that extends other protections to employees. In addition, nothing in this Chapter shall be construed to prevent, interfere or conflict with any rights of an employee under the New York Disability Benefits Law and Paid Family Leave Benefits Law, N.Y. Workers' Comp. Law § 200 et seq.

Sec. 585.14. Public Education and Outreach.

The Westchester County Human Rights Commission shall develop and implement a multilingual outreach program to inform employees, parents and persons who are under the care of a health care provider about the availability of earned paid sick time under this Chapter. This program shall include the distribution of notices and other written materials in English and Spanish and any language deemed appropriate by the Westchester County Human Rights Commission to child care and elder care providers, domestic violence shelters, schools, hospitals, community health centers and other health care providers in Westchester County.

Sec. 585.15. Reverse Preemption.

This local law shall be null and void on the day that Statewide or Federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent State or Federal administrative agency issues and promulgates regulations preempting such action by the County of Westchester. The Board of Legislators may determine via resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

Sec. 585.16. Severability.

If any provision of this Chapter or application thereof to any person or circumstance is judged invalid, the invalidity shall not affect other provisions or applications of the Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared severable.

§2. This Local Law shall take effect 180 days after its adoption, except that in the case of

employers who have employees covered by a collective bargaining agreement as specified in Section 585.04(3), this local law shall apply beginning on the stated expiration date in the collective bargaining agreement.

6-15-18

TO: HONORABLE BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee has reviewed “A LOCAL LAW amending the Laws of Westchester County to add a new Chapter 585 which will provide earned sick leave for certain employees.”

Your Committee is aware that roughly 36% of workers in Westchester County lack paid sick time, and low-income and part-time workers are especially unlikely to be covered. Access to paid sick time promotes safe and healthy work environments by reducing the spread of illness, health care costs, and work-family conflict by providing greater flexibility to fulfill caregiving responsibilities.

Your Committee is informed that, according to the Institute for Women's Policy Research analysis 2012-2014 National Health Interview Survey (NHIS) and the 2012-2014 Integrated Public Use Microdata Series American Community Survey, 50% of Hispanic workers, 33% of Black workers, and 32% of Asian workers in Westchester County lack access to paid sick time. Additionally, state and local government workers are much more likely than private sector workers to have paid sick time: 87% of state and local government workers have access to paid sick time in Westchester County compared with 60% of private sector workers.

Your Committee notes that research shows that workers without access to paid sick time are three times more likely to forgo treatment for themselves and almost two times more likely to forgo care for a family member compared with workers who have paid sick time. Further, a recent study found that employers who provided paid sick time to their employees reported fewer

occupational injuries among employees than those who did not have paid sick time coverage.

Your Committee is also aware that paid sick time allows parents to provide personal care for their sick children. Parental care makes children's recoveries faster and can prevent future health problems. When parents don't have paid sick time, they are more than twice as likely as parents with paid sick time to send a sick child to school or daycare thereby spreading the illness to others, and five times as likely to report taking their child or a family member to the emergency room because they were unable to take time off work during normal work hours.

Your Committee has been informed that paid sick time will reduce recovery time and decrease the likelihood of spreading illness to other members of the workforce and to the public. For example, during the H1N1 flu pandemic of 2009, researchers estimate that 5 million cases of the flu would have been prevented if a federal law providing paid sick time had been in place. *See A Better Balance Report by Supriya Kumar, et al., "The impact of Workplace Policies and Other Social Factors on the Self-Reported Influenza-Like Illness Incidence During the 2009 H1N1 Pandemic"*.

Paid sick time will reduce health care expenditures. Emergency room visits increase health care costs on taxpayers. According to the Institute for Women's Policy Research ("IWPR") report, providing all workers with paid sick time nationally would reduce visits to hospital emergency departments and save \$1 billion per year in medical costs, including more than \$500 million in savings to publicly funded health insurance programs such as Medicare, Medicaid, and Child Health Plus. *See IWPR Access to Paid Sick Days Would Reduce Health Costs.* As baby

boomers age, more and more elderly individuals will need support from family caregivers to lead healthy, independent lives. Paid sick time allows employees to take off work in order to care for an elderly family member, including taking the individual to a doctor's appointment or providing care during a health emergency.

Your Committee is further informed that providing paid sick time is good for a company's bottom line. Researchers estimate that the total cost of "presenteeism," where employees go to work sick and are less productive, is more than \$150 billion per year. Sick workers also spread disease to their co-workers. Paid sick time also results in reduced voluntary and involuntary turnover. It costs an employer 150% of a salaried employee's yearly salary to replace him or her. For an hourly employee, turnover costs the employer anywhere from 50% to 75% of the employee's annual pay. Since enacting a paid sick time law in 2007, San Francisco has performed better than surrounding counties in terms of total employment. *See A Better Balance* – from reports by Paul Hemp, Vicky Lovell, Jodie Levin-Epstein and John Petro. Ensuring that all employers provide paid sick time, levels the playing field for employers who don't already provide this benefit and lets companies choose employees from a larger pool of people, allowing everyone to benefit.

Your Committee additionally notes that once paid sick time laws are enacted they are popular with both business and workers. For example, businesses in New York City look very positively on the law now that it has been in effect for several years. 86% of employers surveyed said they had a positive view of the law and a whopping 98% said they had seen no instances of abuse. *See Appelbaum and Milkman, "No Big Deal: The Impact of New York City's Paid Sick*

Days Law on Employers.” Golden Gate Restaurant Association, in San Francisco, while originally an opponent, has since said the paid sick time law was successful and “the best public policy for the least cost,” also acknowledging that employees have not abused paid sick leave.

According to a study by A Better Balance entitled “Overview of Paid Sick Time Laws in the United States”, at least 41 jurisdictions nationwide, including 7 states, have enacted laws requiring employers to provide paid sick time to their employees. None of those jurisdictions have experienced negative economic consequences as a result of their paid sick time law. New York City showed steady job growth in the year after the law went into effect; San Francisco showed stronger job growth than in surrounding counties in the year after their law went into effect; Washington D.C. and Seattle saw no negative economic effects following implementation of their paid sick time law in either job loss or movement of businesses out of the city. According to a study by Appelbaum and Milkman entitled “Good for Business? The Case of Paid Sick Leave in Connecticut”, employers that already offered paid sick days made minimal or no adjustments to comply with Connecticut’s paid sick leave law. The study further indicated that the average usage in Connecticut was 4 days and half of the employers reported employees used 3 days or less. The study also noted that only minimal abuse was reported in Connecticut and what was reported was consistent with the minimal abuse which was experienced before Connecticut’s paid sick leave law took effect. *See also* New York Paid Leave Coalition’s PowerPoint entitled “Time to Care”.

Your Committee further notes that Westchester County workers in service, transportation, and manufacturing occupations are less likely to have paid sick time. 54% in service occupations and 47% in transportation and manufacturing occupations do not have access to this benefit. This includes food service workers and home health aides, two groups which can very easily, and

rapidly, spread disease. The proposed legislation intends to address these issues by providing employees with a maximum of 40 hours of earned sick leave per year and setting forth the parameters of when such earned sick leave may be used and protecting the employees from adverse employment action for appropriately exercising their right to use their earned sick time. Whether or not the earned sick leave will be paid will be determined by the number of employees employed by the employer.

Upon enactment of this law, it is anticipated that this law will be enforced by short term and long term measures. Initially, employers and employees will be provided with the requisite information as to administration and enforcement of the law. If necessary, the County may contract with an entity to monitor and oversee compliance and to report to the County Board as to the progress relating to the requisite transition. Finally, when warranted, various governmental agencies and/or nongovernmental entities in accordance with their authority may take appropriate action to enforce the provisions of this Chapter.

As you know, this Honorable Board must comply with the requirements of the State Environmental Quality Review Act ("SEQRA"). Your Committee is advised that the Department of Planning has reviewed the applicable SEQRA regulations, and has concluded that since this proposed local law will not "change the use, appearance or condition of any natural resource or structure," or otherwise affect the environment, with respect to the State Environmental Quality Review (SEQR) Act, this does not constitute an action as defined in section 617.2(b) of 6NYCRR Part 617. As such, no environmental review is required. Your Committee concurs with that conclusion.

An affirmative vote of a majority of the voting strength of your Honorable Board is required for approval of this Local Law.

In light of the aforementioned, your Committee, after careful consideration, recommends the adoption of this local law.

Dated: _____, 2018
White Plains, New York

COMMITTEE ON

8-1-18


Attachment: LL - Paid Sick Leave for Certain Employees- DRAFT 4 (10623 : Paid sick leave for Certain Employees)

RESOLUTION NO. ____ - 2018

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. ____ - 2018, entitled "A LOCAL LAW amending the Laws of Westchester County to add a new Chapter 585 which will provide earned sick leave for certain employees." The public hearing will be held at __.m. on the ____ day of _____, 2018 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.

Attachment: LL - Paid Sick Leave for Certain Employees- DRAFT 4 (10623 : Paid sick leave for Certain Employees)

TO: Linda Trentacoste
Associate County Attorney

FROM: David S. Kvinge, AICP, RLA, CFM 
Director of Environmental Planning

DATE: February 8, 2018

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR
PAID SICK LEAVE LAW**

Pursuant to your request for an environmental review of the above referenced action, the Planning Department has determined that no environmental review is necessary.

The action involves a local law that would add a new Article III to Chapter 700 of the Laws of Westchester County to provide paid sick leave for certain employees working within Westchester County.

Since the proposed law will not “change the use, appearance or condition of any natural resource or structure,” or otherwise affect the environment, with respect to the State Environmental Quality Review (SEQR) Act, this does not constitute an action as defined in section 617.2(b) of 6NYCRR Part 617. As such, no environmental review is required.

Please contact me if you need any additional information on this matter.

DSK/cnm

cc: Andrew Ferris, Chief of Staff
Paula Friedman, Assistant to the County Executive
Debby Linhardt, Committee Coordinator, Board of Legislators
Norma Drummond, Acting Commissioner
Claudia Maxwell, Associate Environmental Planner

FISCAL IMPACT STATEMENT

1.1.d

SUBJECT: Earned Sick Leave Law

☐ NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

☒ GENERAL FUND

☐ AIRPORT FUND

☐ SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ 310,000

Total Current Year Revenue \$ -

Source of Funds (check one): ☐ Current Appropriations ☐ Transfer of Existing Appropriations

☒ Additional Appropriations

☐ Other (explain)

Identify Accounts: Human Rights Commission personal service (0.5 FTE - 3 mo); DoIT (graphics & printing) personal service, materials & supplies; personal services for County hourly/temp employees (3mo)

Potential Related Operating Budget Expenses: Annual Amount \$ 437,000

Describe: Annualized estimated personal services for enforcement by Human Rights Comm and estimated net cost of paid sick time earned by hourly/temp County employees. Excludes \$200k in estimated initial promotional expenses, which is included in "Current Year Expense" above.

Potential Related Operating Budget Revenues: Annual Amount TBD

Describe: Violations of this Local Law could result in civil penalties of \$500, \$750 or \$1,000 per violation, payable to the County. Due to the effective date of the Local Law and the complaint adjudication process prescribed therein, revenue would likely not be collected until 2019.

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: Administrative support from additional county agencies (e.g. Dept. of Finance, HR, Law) will be required to implement new sick leave accruals as well as the promotional campaign.

Next Four Years: TBD. This FIS does not take into account potential implementation costs for county based employers who are contracted by the County to perform services. Additional costs to these employers may be passed on to the County. Such employers may, alternatively, achieve savings in healthcare expenses and/or improved employee productivity as a consequence of this Local Law.

Prepared by: Gideon Grande

Title: Deputy Budget Director

Department: Budget

Date: June 18, 2018

Reviewed By: 

Budget Director

Date: 6/18/18

Attachment: LL - Paid Sick Leave for Certain Employees- DRAFT 4 (10623 : Paid sick leave for Certain Employees)

LOCAL LAW INTRO. NO. - 2018

A LOCAL LAW amending the Laws of Westchester County to add a new Chapter 585 which will provide earned sick leave for certain employees.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. A new Chapter 585 is hereby added to the Laws of Westchester County to read as follows:

Chapter 585 - EARNED SICK LEAVE LAW

Sec. 585.01. Short Title.

Sec. 585.02. Definitions.

Sec. 585.03. Accrual of Earned Sick Time.

Sec. 585.04. Employer's Options; Collective Bargaining Agreements.

Sec. 585.05. Protections for Accrued Earned Sick Time.

Sec. 585.06. Use of Earned Sick Time.

**Sec. 585.07. Procedures Relating to the Request to Use
Earned Sick Time.**

**Sec. 585.08. Exercise of Rights Protected;
Retaliatory Personnel Actions Prohibited,
Abuse subject to discipline.**

Sec. 585.09. Notice and Posting.

Sec. 585.10. Employer Records.

Sec. 585.11. Civil Action and Penalties.

Sec. 585.12. Confidentiality and Nondisclosure.

Sec. 585.13. Other Legal Requirements.

Sec. 585.14. Public Education and Outreach.

Sec. 585.15. Reverse Preemption.

Sec. 585.16. Severability.

Sec. 585.01, Short Title.

This Chapter shall be known as and may be cited as the "Earned Sick Leave Law."

Sec. 585.02. Definitions.

For Purposes of this Chapter:

1. "Calendar year" shall mean from January 1 to December 31 in any given year.
2. "Child" shall mean, regardless of age, a biological, adopted, foster child, legal ward or a person to whom the employee stands in *loco parentis* or to whom the employee stood in *loco parentis* when that person was a minor.
3. "Domestic partner" shall mean any "domestic partner" as defined under New York State Workers' Compensation Law section 4(1).
4. "Domestic worker" shall mean any domestic worker as defined in section 2(16) of the New York State Labor Law who is employed for hire within the Westchester County for more than eighty hours in a calendar year on a full-time or part-time basis.
5. "Earned sick time" means time that is accrued in accordance with 585.03 or calculated in accordance with 585.04 to be utilized for the purposes provided in Section 585.06 of this Chapter.
6. "Employee" shall any person employed for hire by an employer in any employment within Westchester County for more than 80 hours in a calendar year who performs work on a full-time or part-time basis, including work performed in subsidized private sector and not-for-profit employment programs, but not including:
 - a. work performed as a participant in a work experience program established by a social services district;
 - b. work performed pursuant to work study programs under 42 U.S.C. section 2753;
 - c. work performed by employees compensated by or through qualified scholarships as defined in 26 U.S.C. section 117.
7. "Employer" shall mean any "employer" as defined in section 190(3) of New York State Labor Law, except that an employer includes Westchester County government.
8. "Family member" means: an employee's child, spouse, domestic partner, parent, sibling, grandchild or grandparent; and the child or parent of an employee's spouse, domestic partner or household member. For purposes of this subsection, "household member" shall mean (i) persons related by consanguinity or affinity; (ii) persons legally married to or in a domestic partnership with one another; (iii) persons formerly married to or in a domestic partnership with one another regardless of whether they still reside in the same household; (iv) persons who have a child in common, regardless of whether such persons have been married or domestic partners or have lived together at any time; and (v) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time.

9. "Health care professional" means any person licensed under Federal or State law to provide medical or emergency services, including but not limited to doctors, nurses, midwives and emergency room personnel.
10. "Parent" shall mean a biological, foster, step- or adoptive parent, a legal guardian of an employee or a person who stood in loco parentis when the employee was a minor.
11. "Personal time" shall mean leave with pay for personal business including, but not limited to, use for religious observance, attendance at funerals, necessary absences due to extraordinary weather conditions, attendance at conventions other than on required business, personal or family business appointments and similar reasons.
12. Persons who are "in loco parentis" shall mean those with day-to-day responsibilities to care for and financially support a child, or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.
13. "Retaliatory personnel action" means denial of any right guaranteed under this Chapter or any threat, discharge, suspension, demotion, reduction of hours, reporting or threatening to report an employee's suspected citizenship or immigration status, or the suspected citizenship or immigration status of a family member of the employee to a federal, state or local agency, or any other adverse action against an employee for the exercise of any right guaranteed herein including any sanctions against an employee who is the recipient of public benefits for rights guaranteed under this Chapter. Retaliation shall also include interference with or punishment for in any manner participating in or assisting an investigation, proceeding or hearing under this Chapter.
14. "Year", other than "calendar year" means a regular and consecutive 12-month period as determined by the employer.

Sec. 585.03. Accrual of Earned Sick Time,

1. At the commencement of employment or 90 days after this law goes into effect, whichever is later, all employees, except for domestic workers, shall accrue a minimum of one hour of sick time for every 30 hours worked.
2. Employees of an employer with 5 or more employees shall be entitled to earn and use up to 40 hours of paid sick time in a year, unless the employer selects a higher limit. Paid sick time shall be compensated at the same hourly rate as the employee normally earns during hours worked, but in no case shall this hourly amount be less than that provided under section 652(1) of the labor law of New York. Employees of an employer with fewer than 5 employees shall be entitled to earn and use up to 40 hours of unpaid sick time in a year. In determining the number of employees performing work for an employer pursuant to this subsection, all employees performing work for compensation on a full-time, part-time or temporary basis shall be counted, provided that where the number of employees who work for an employer per week fluctuates, the number of employees for the current calendar year may be based upon the average number of employees who worked per week during the preceding calendar year.

3. Domestic workers shall accrue a minimum of one hour of sick time for every seven days worked, which shall be in addition to the one day of rest provided for in New York State Labor Law section 161(1). All domestic workers employed by any employer, regardless of the number of domestic workers employed, shall be entitled to earn and use up to 40 hours of earned paid sick time in a year, unless the employer selects a higher limit.
4. Forty (40) hours is the maximum amount of sick leave to be accrued in a year.

Sec. 585.04. Employer's Options: Collective Bargaining Agreements.

1. Nothing in this Chapter shall be construed to discourage or prohibit an employer from allowing the accrual of earned sick time at a faster rate than provided herein; or from providing more sick time than provided herein.
2. In lieu of calculating the accrual of earned sick time, an employer shall have the option to provide an employee with sick time and personal time which if combined equals forty (40) hours or more per calendar year, or the year as determined by the employer (i.e., anniversary date). Such an employer shall be in compliance with this law, provided that the employee is permitted to take time as needed for sick time, with no advance notice necessary and no restrictions are placed on use of earned sick time other than those contained in this Chapter.
3. If an employer has employees whose sick/personal time are covered by a valid collective bargaining agreement that does not meet the requirements set forth in subsection 2 above, the employer must comply with the provisions of this law unless such provisions are expressly waived in the collective bargaining agreement.

Sec. 585.05. Protections for Earned Sick Leave.

1. Earned sick time that has not been utilized can be carried over to the following year, provided that the maximum amount of sick leave for any given year remains at forty (40) hours.
2. If any employee, including domestic workers, is transferred to a separate division, entity or location within Westchester County, but remains employed by the same employer, the employee is entitled to all unused earned sick time accrued at the prior division, entity or location provided that said prior division, entity or location is also located in Westchester County.
3. When there is a separation from employment and the employee is rehired within 9 months of separation by the same employer, previously accrued earned sick time that had not been used shall be reinstated.

4. When one employer is succeeded by another employer, all employees of the original employer who remain employed by the successor employer are entitled to all the unused earned sick time they accrued when employed by the original employer.

Sec. 585.06. Use of Earned Sick Time.

1. All earned sick time may be used for:
 - a. An employee's mental or physical illness, injury or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; an employee's need for preventive medical care;
 - b. The care of a family member with a mental or physical illness, injury or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; and care of a family member who needs preventive medical care;
 - c. Any employer who is willing to pay for the use of an employee's earned sick time, may authorize an employee to utilize sick time if the employer reasonably determines that an employee's mental or physical illness, injury or health condition or an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition requires immediate attention;
 - d. The care for an employee or family member when it has been determined by the public health authorities having jurisdiction that the employee's or family member's presence in the community may jeopardize the health of others because of his or her exposure to a communicable disease where or not the employee or family member has actually contracted the communicable disease;
 - e. The closure of the employee's place of business by order of a public official due to a public health emergency;
 - f. The closure of a day care or elementary or secondary school attended by an employee's child where such closure was due to a public health emergency.
2. An employee's ability to use earned sick time may be delayed until the employee has worked for the employer for 90 days.
3. In the event that an employee only needs to use a portion of a day of earned sick time, an employee may use a minimum of four hours and, if more time is needed, then the smallest increment that the employer's payroll system uses to account for absence or use of other time.
4. At its discretion, an employer may loan earned sick time to an employee in advance of accrual by such employee.

5. Nothing in this section shall be construed as requiring an employer to provide financial or other reimbursement to an employee upon the employee's termination, resignation, retirement or other separation from employment for unused accrued earned sick time.

Sec. 585.07. Procedures Relating to the Request to Use Earned Sick Time.

1. Earned sick time shall be provided upon the request of an employee. Such request may be made orally, in writing, by electronic means or by any other means acceptable to the employer. When possible, the request shall include the expected duration of the absence.
2. When the use of earned sick time is foreseeable, the employee shall make a good faith effort to provide notice to the employer in advance and shall make a reasonable effort to schedule the use of earned sick time in a manner that does not unduly disrupt the operations of the employer.
3. An employer that requires notice of the need to use earned sick time shall provide a written policy that contains the procedures for the employee to provide notice. An employer that has not provided a copy of its written policy to the employee shall not deny earned sick time to the employee based on noncompliance with such policy.
4. An employer may not require, as a condition of an employee's use of earned sick time, that the employee find another employee to work during the time of the employee's absence.
5. For earned sick time of more than 3 consecutive work days, an employer may require the employee to provide reasonable documentation that the earned sick time has been used for a purpose covered by section 585.06 above. Documentation provided by the employee and signed by a health care professional indicating that earned sick time is necessary shall be considered reasonable documentation for purposes of this section. The employer cannot require a doctor to provide a note containing information in violation of HIPAA.

Sec. 585.08. Exercise of Rights Protected; Retaliatory Personnel Actions Prohibited; Abuse subject to discipline.

1. It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, the right to use earned sick leave.
2. It shall be unlawful for an employer to include used earned sick time as an absence that may lead to or result in discipline, discharge, demotion, or suspension.
3. An employer shall not take retaliatory personnel action or discriminate against an employee because the employee has requested to use or has used earned sick time.

4. An employer shall not take retaliatory personnel action or discriminate against an employee that has filed a complaint regarding an employer's alleged violation of this Earned Sick Leave Law.
5. An employer shall not take retaliatory personnel action or discriminate against an employee that has informed another employee of his or her rights under the Earned Sick Leave Law.
6. There shall be a rebuttable presumption of unlawful retaliatory personnel action whenever an employer takes adverse action against an employee within 90 days of the filing of a complaint regarding an employer's alleged violation of this Earned Sick Leave Law.
7. Employees who abuse earned sick leave by not utilizing such time as set forth in accordance with 585.06, or as otherwise provided by law, may be subject to disciplinary action as appropriate.

Sec. 585.09. Notice and Posting.

1. At the commencement of employment or within 90 days of the effective date of this law, whichever is later, all employers shall give employees a copy of the Earned Sick Leave Law and written notice of how the law applies to that employee.
2. Employers shall display a copy of the Earned Sick Leave Law and a poster in English, Spanish and any other language deemed appropriate by the County of Westchester, in a conspicuous location accessible to the employee.
3. An employer who willfully violates the notice and posting requirements of this section shall be subject to a civil fine in an amount not to exceed \$500 for each separate offense.

Sec. 585.10. Employer Records.

1. Employers shall retain records clearly documenting the hours worked by employees and earned sick time accrued and taken by employees, for a period of three years.
2. There shall be a rebuttable presumption of a violation of the Earned Sick Leave Law for an employer's failure to retain records in accordance with subdivision 1.

Sec. 585.11. Enforcement, Civil Action and Penalties.

1. When warranted, governmental agencies and/or nongovernmental entities, in accordance with their authority, may take appropriate action to enforce the provisions of this Chapter.
2. Any person who claims to have been aggrieved by a violation of this Chapter may commence a civil action in the appropriate court of jurisdiction not later than one (1) year after the occurrence of an alleged violation.

3. If the court finds an unlawful violation has occurred, the court may:

- a. Require the employer to pay three times the wages that should have been paid under this Chapter or two hundred fifty dollars, whichever is greater for each instance of sick time taken by an employee but unlawfully not compensated by the employer;
- b. Require the employer to pay five hundred dollars for each instance of sick time requested by an employee but unlawfully denied by the employer and not taken by the employee or unlawfully conditioned upon searching for or finding another employee to work;
- c. Grant such additional as relief, as it deems appropriate, the full amount of any unpaid earned sick time plus any actual damages suffered as the result of the employer's violation of the Earned Sick Leave Law, reasonable attorney's fees, and other legal or equitable relief as may be appropriate, without limitation, reinstatement to employment and back pay.

Sec. 585.12. Confidentiality and Nondisclosure.

1. Health information about an employee or family member obtained solely for the purposes of utilizing sick time shall be treated as confidential and shall not be disclosed except with the written permission of the affected employee, unless such disclosure is otherwise required by law.
2. Any health or safety information possessed by an employer regarding an employee or employee's family member must be maintained on a separate form and in a separate file from other personnel information.

Sec. 585.13. Other Legal Requirements.

This Chapter provides minimum requirements pertaining to earned sick time and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, or policy that provides for greater accrual or use by employees of earned sick time or that extends other protections to employees. In addition, nothing in this Chapter shall be construed to prevent, interfere or conflict with any rights of an employee under the New York Disability Benefits Law and Paid Family Leave Benefits Law, N.Y. Workers' Comp. Law § 200 et seq.

Sec. 585.14. Public Education and Outreach.

The Westchester County Human Rights Commission shall develop and implement a multilingual outreach program to inform employees, parents and persons who are under the care of a health care provider about the availability of earned sick time under this Chapter. This program shall include the distribution of notices and other written materials in English and Spanish and any language deemed appropriate by the Westchester County Human Rights Commission to child care

and elder care providers, domestic violence shelters, schools, hospitals, community health centers and other health care providers in Westchester County.

Sec. 585.15. Reverse Preemption.

This local law shall be null and void on the day that Statewide or Federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent State or Federal administrative agency issues and promulgates regulations preempting such action by the County of Westchester. The Board of Legislators may determine via resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

Sec. 585.16. Severability.

If any provision of this Chapter or application thereof to any person or circumstance is judged invalid, the invalidity shall not affect other provisions or applications of the Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared severable.

§2. This Local Law shall take effect 180 days after its adoption, except that in the case of employers who have employees covered by a collective bargaining agreement as specified in Section 585.04(3), this local law shall apply beginning on the stated expiration date in the collective bargaining agreement.

7/26/2018

Attachment: LL - Paid Sick Leave for Certain Employees- DRAFT 4 (10623 : Paid sick leave for Certain Employees)

TO: HONORABLE BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee has reviewed “A LOCAL LAW amending the Laws of Westchester County to add a new Chapter 585 which will provide earned sick leave for certain employees.”

Your Committee is aware that roughly 36% of workers in Westchester County lack paid sick time, and low-income and part-time workers are especially unlikely to be covered. Access to paid sick time promotes safe and healthy work environments by reducing the spread of illness, health care costs, and work-family conflict by providing greater flexibility to fulfill caregiving responsibilities.

Your Committee is informed that, according to the Institute for Women's Policy Research analysis 2012-2014 National Health Interview Survey (NHIS) and the 2012-2014 Integrated Public Use Microdata Series American Community Survey, 50% of Hispanic workers, 33% of Black workers, and 32% of Asian workers in Westchester County lack access to paid sick time. Additionally, state and local government workers are much more likely than private sector workers to have paid sick time: 87% of state and local government workers have access to paid sick time in Westchester County compared with 60% of private sector workers.

Your Committee notes that research shows that workers without access to paid sick time are three times more likely to forgo treatment for themselves and almost two times more likely to forgo care for a family member compared with workers who have paid sick time. Further, a recent study found that employers who provided paid sick time to their employees reported fewer

occupational injuries among employees than those who did not have paid sick time coverage.

Your Committee is also aware that paid sick time allows parents to provide personal care for their sick children. Parental care makes children's recoveries faster and can prevent future health problems. When parents don't have paid sick time, they are more than twice as likely as parents with paid sick time to send a sick child to school or daycare thereby spreading the illness to others, and five times as likely to report taking their child or a family member to the emergency room because they were unable to take time off work during normal work hours.

Your Committee has been informed that paid sick time will reduce recovery time and decrease the likelihood of spreading illness to other members of the workforce and to the public. For example, during the H1N1 flu pandemic of 2009, researchers estimate that 5 million cases of the flu would have been prevented if a federal law providing paid sick time had been in place. *See A Better Balance Report by Supriya Kumar, et al., "The impact of Workplace Policies and Other Social Factors on the Self-Reported Influenza-Like Illness Incidence During the 2009 H1N1 Pandemic"*.

Paid sick time will reduce health care expenditures. Emergency room visits increase health care costs on taxpayers. According to the Institute for Women's Policy Research ("IWPR") report, providing all workers with paid sick time nationally would reduce visits to hospital emergency departments and save \$1 billion per year in medical costs, including more than \$500 million in savings to publicly funded health insurance programs such as Medicare, Medicaid, and Child Health Plus. *See IWPR Access to Paid Sick Days Would Reduce Health Costs.* As baby

boomers age, more and more elderly individuals will need support from family caregivers to lead healthy, independent lives. Paid sick time allows employees to take off work in order to care for an elderly family member, including taking the individual to a doctor's appointment or providing care during a health emergency.

Your Committee is further informed that providing paid sick time is good for a company's bottom line. Researchers estimate that the total cost of "presenteeism," where employees go to work sick and are less productive, is more than \$150 billion per year. Sick workers also spread disease to their co-workers. Paid sick time also results in reduced voluntary and involuntary turnover. It costs an employer 150% of a salaried employee's yearly salary to replace him or her. For an hourly employee, turnover costs the employer anywhere from 50% to 75% of the employee's annual pay. Since enacting a paid sick time law in 2007, San Francisco has performed better than surrounding counties in terms of total employment. *See A Better Balance* – from reports by Paul Hemp, Vicky Lovell, Jodie Levin-Epstein and John Petro. Ensuring that all employers provide paid sick time, levels the playing field for employers who don't already provide this benefit and lets companies choose employees from a larger pool of people, allowing everyone to benefit.

Your Committee additionally notes that once paid sick time laws are enacted they are popular with both business and workers. For example, businesses in New York City look very positively on the law now that it has been in effect for several years. 86% of employers surveyed said they had a positive view of the law and a whopping 98% said they had seen no instances of abuse. *See Appelbaum and Milkman, "No Big Deal: The Impact of New York City's Paid Sick*

Days Law on Employers.” Golden Gate Restaurant Association, in San Francisco, while originally an opponent, has since said the paid sick time law was successful and “the best public policy for the least cost,” also acknowledging that employees have not abused paid sick leave.

According to a study by A Better Balance entitled “Overview of Paid Sick Time Laws in the United States”, at least 41 jurisdictions nationwide, including 7 states, have enacted laws requiring employers to provide paid sick time to their employees. None of those jurisdictions have experienced negative economic consequences as a result of their paid sick time law. New York City showed steady job growth in the year after the law went into effect; San Francisco showed stronger job growth than in surrounding counties in the year after their law went into effect; Washington D.C. and Seattle saw no negative economic effects following implementation of their paid sick time law in either job loss or movement of businesses out of the city. According to a study by Appelbaum and Milkman entitled “Good for Business? The Case of Paid Sick Leave in Connecticut”, employers that already offered paid sick days made minimal or no adjustments to comply with Connecticut’s paid sick leave law. The study further indicated that the average usage in Connecticut was 4 days and half of the employers reported employees used 3 days of less. The study also noted that only minimal abuse was reported in Connecticut and what was reported was consistent with the minimal abuse which was experienced before Connecticut’s paid sick leave law took effect. *See also* New York Paid Leave Coalition’s PowerPoint entitled “Time to Care”.

Your Committee further notes that Westchester County workers in service, transportation, and manufacturing occupations are less likely to have paid sick time. 54% in service occupations and 47% in transportation and manufacturing occupations do not have access to this benefit. This includes food service workers and home health aides, two groups which can very easily, and

rapidly, spread disease. The proposed legislation intends to address these issues by providing employees with a maximum of 40 hours of earned sick leave per year and setting forth the parameters of when such earned sick leave may be used and protecting the employees from adverse employment action for appropriately exercising their right to use their earned sick time. Whether or not the earned sick leave will be paid will be determined by the number of employees employed by the employer.

Upon enactment of this law, it is anticipated that this law will be enforced by short term and long term measures. Initially, employers and employees will be provided with the requisite information as to administration and enforcement of the law. If necessary, the County may contract with an entity to monitor and oversee compliance and to report to the County Board as to the progress relating to the requisite transition. Finally, the County shall determine an appropriate administrative remedy prior to the effective date.

As you know, this Honorable Board must comply with the requirements of the State Environmental Quality Review Act ("SEQRA"). Your Committee is advised that the Department of Planning has reviewed the applicable SEQRA regulations, and has concluded that since this proposed local law will not "change the use, appearance or condition of any natural resource or structure," or otherwise affect the environment, with respect to the State Environmental Quality Review (SEQR) Act, this does not constitute an action as defined in section 617.2(b) of 6NYCRR Part 617. As such, no environmental review is required. Your Committee concurs with that conclusion.

An affirmative vote of a majority of the voting strength of your Honorable Board is required for approval of this Local Law.

In light of the aforementioned, your Committee, after careful consideration, recommends the adoption of this local law.

Dated: _____, 2018
White Plains, New York

COMMITTEE ON

8-3-18

Attachment: LL - Paid Sick Leave for Certain Employees - DRAFT 5 (10623 : Paid sick leave for Certain Employees)


RESOLUTION NO. ____ – 2018

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. ____ - 2018, entitled “A LOCAL LAW amending the Laws of Westchester County to add a new Chapter 585 which will provide earned sick leave for certain employees.” The public hearing will be held at __.m. on the ____ day of _____, 2018 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.

Attachment: LL - Paid Sick Leave for Certain Employees - DRAFT 5 (10623 : Paid sick leave for Certain Employees)

Memorandum
Department of Planning

TO: Linda Trentacoste
Associate County Attorney

FROM: David S. Kvinge, AICP, RLA, CFM 
Director of Environmental Planning

DATE: February 8, 2018

SUBJECT: STATE ENVIRONMENTAL QUALITY REVIEW FOR
PAID SICK LEAVE LAW

Pursuant to your request for an environmental review of the above referenced action, the Planning Department has determined that no environmental review is necessary.

The action involves a local law that would add a new Article III to Chapter 700 of the Laws of Westchester County to provide paid sick leave for certain employees working within Westchester County.

Since the proposed law will not "change the use, appearance or condition of any natural resource or structure," or otherwise affect the environment, with respect to the State Environmental Quality Review (SEQR) Act, this does not constitute an action as defined in section 617.2(b) of 6NYCRR Part 617. As such, no environmental review is required.

Please contact me if you need any additional information on this matter.

DSK/cnm

cc: Andrew Ferris, Chief of Staff
Paula Friedman, Assistant to the County Executive
Debby Linhardt, Committee Coordinator, Board of Legislators
Norma Drummond, Acting Commissioner
Claudia Maxwell, Associate Environmental Planner

Attachment: LL - Paid Sick Leave for Certain Employees - DRAFT 5 (10623 : Paid sick leave for Certain Employees)

FISCAL IMPACT STATEMENT

SUBJECT: Earned Sick Leave Law☐ NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

☒ GENERAL FUND☐ AIRPORT FUND☐ SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ 310,000Total Current Year Revenue \$ -Source of Funds (check one): ☐ Current Appropriations ☐ Transfer of Existing Appropriations☒ Additional Appropriations ☐ Other (explain)Identify Accounts: Human Rights Commission personal service (0.5 FTE - 3 mo); DoIT (graphics & printing) personal service, materials & supplies; personal services for County hourly/temp employees (3mo)Potential Related Operating Budget Expenses: Annual Amount \$ 437,000Describe: Annualized estimated personal services for enforcement by Human Rights Comm and estimated net cost of paid sick time earned by hourly/temp County employees. Excludes \$200k in estimated initial promotional expenses, which is included in "Current Year Expense" above.Potential Related Operating Budget Revenues: Annual Amount TBDDescribe: Violations of this Local Law could result in civil penalties of \$500, \$750 or \$1,000 per violation, payable to the County. Due to the effective date of the Local Law and the complaint adjudication process prescribed therein, revenue would likely not be collected until 2019.

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: Administrative support from additional county agencies (e.g. Dept. of Finance, HR, Law) will be required to implement new sick leave accruals as well as the promotional campaign.Next Four Years: TBD. This FIS does not take into account potential implementation costs for county based employers who are contracted by the County to perform services. Additional costs to these employers may be passed on to the County. Such employers may, alternatively, achieve savings in healthcare expenses and/or improved employee productivity as a consequence of this Local Law.Prepared by: Gideon GrandeTitle: Deputy Budget DirectorDepartment: BudgetDate: June 18, 2018Reviewed By: 

Budget Director

Date: 6/18/18

Attachment: LL - Paid Sick Leave for Certain Employees - DRAFT 5 (10623 : Paid sick leave for Certain Employees)

LOCAL LAW INTRO. NO. - 2018

A LOCAL LAW amending the Laws of Westchester County to add a new Chapter 585 which will provide earned sick leave for certain employees.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. A new Chapter 585 is hereby added to the Laws of Westchester County to read as follows:

Chapter 585 - EARNED SICK LEAVE LAW

- Sec. 585.01. Short Title.**
- Sec. 585.02. Definitions.**
- Sec. 585.03. Accrual of Earned Sick Time.**
- Sec. 585.04. Employer's Options; Collective Bargaining Agreements.**
- Sec. 585.05. Protections for Accrued Earned Sick Time.**
- Sec. 585.06. Use of Earned Sick Time.**
- Sec. 585.07. Procedures Relating to the Request to Use Earned Sick Time.**
- Sec. 585.08. Exercise of Rights Protected; Retaliatory Personnel Actions Prohibited.**
- Sec. 585.09. Notice and Posting.**
- Sec. 585.10. Employer Records.**
- Sec. 585.11. Civil Action and Penalties.**
- Sec. 585.12. Confidentiality and Nondisclosure.**
- Sec. 585.13. Other Legal Requirements.**
- Sec. 585.14. Public Education and Outreach.**
- Sec. 585.15. Reverse Preemption.**
- Sec. 585.16. Severability.**

Sec. 585.01. Short Title.

This Chapter shall be known as and may be cited as the "Earned Sick Leave Law."

Sec. 585.02. Definitions.

For Purposes of this Chapter:

1. "Calendar year" shall mean from January 1 to December 31 in any given year.
2. "Child" shall mean, regardless of age, a biological, adopted, foster child, legal ward or a person to whom the employee stands in *loco parentis* or to whom the employee stood in *loco parentis* when that person was a minor.
3. "Domestic partner" shall mean any "domestic partner" as defined under New York State Workers' Compensation Law section 4(1).
4. "Domestic worker" shall mean any domestic worker as defined in section 2(16) of the New York State Labor Law who is employed for hire within the Westchester County for more than eighty hours in a calendar year on a full-time or part-time basis.
5. "Earned sick time" means time that is accrued in accordance with 585.03 or calculated in accordance with 585.04 to be utilized for the purposes provided in Section 585.06 of this Chapter.
6. "Employee" shall any person employed for hire by an employer in any employment within Westchester County for more than 80 hours in a calendar year who performs work on a full-time or part-time basis, including work performed in subsidized private sector and not-for-profit employment programs, but not including:
 - a. work performed as a participant in a work experience program established by a social services district;
 - b. work performed pursuant to work study programs under 42 U.S.C. section 2753;
 - c. work performed by employees compensated by or through qualified scholarships as defined in 26 U.S.C. section 117.
7. "Employer" shall mean any "employer" as defined in section 190(3) of New York State Labor Law, except that an employer includes Westchester County government.
8. "Family member" means: an employee's child, spouse, domestic partner, parent, sibling, grandchild or grandparent; and the child or parent of an employee's spouse, domestic partner or household member. For purposes of this subsection, "household member" shall mean (i) persons related by consanguinity or affinity; (ii) persons legally married to or in a domestic partnership with one another; (iii) persons formerly married to or in a domestic partnership with one another regardless of whether they still reside in the same household; (iv) persons who have a child in common, regardless of whether such persons have been married or domestic partners or have lived together at any time; and (v) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time.

9. "Health care professional" means any person licensed under Federal or State law to provide medical or emergency services, including but not limited to doctors, nurses, midwives and emergency room personnel.
10. "Parent" shall mean a biological, foster, step- or adoptive parent, a legal guardian of an employee or a person who stood in loco parentis when the employee was a minor.
11. "Personal time" shall mean leave with pay for personal business including, but not limited to, use for religious observance, attendance at funerals, necessary absences due to extraordinary weather conditions, attendance at conventions other than on required business, personal or family business appointments and similar reasons.
12. Persons who are "in loco parentis" shall mean those with day-to-day responsibilities to care for and financially support a child, or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.
13. Retaliatory personnel action" means denial of any right guaranteed under this Chapter or any threat, discharge, suspension, demotion, reduction of hours, reporting or threatening to report an employee's suspected citizenship or immigration status, or the suspected citizenship or immigration status of a family member of the employee to a federal, state or local agency, or any other adverse action against an employee for the exercise of any right guaranteed herein including any sanctions against an employee who is the recipient of public benefits for rights guaranteed under this Chapter. Retaliation shall also include interference with or punishment for in any manner participating in or assisting an investigation, proceeding or hearing under this Chapter.
14. "Year", other than "calendar year" means a regular and consecutive 12-month period as determined by the employer.

Sec. 585.03. Accrual of Earned Sick Time,

1. At the commencement of employment or 90 days after this law goes into effect, whichever is later, all employees, except for domestic workers, shall accrue a minimum of one hour of sick time for every 30 hours worked.
2. Employees of an employer with 5 or more employees shall be entitled to earn and use up to 40 hours of paid sick time in a year, unless the employer selects a higher limit. Paid sick time shall be compensated at the same hourly rate as the employee normally earns during hours worked, but in no case shall this hourly amount be less than that provided under section 652(1) of the labor law of New York. Employees of an employer with fewer than 5 employees shall be entitled to earn and use up to 40 hours of unpaid sick time in a year. In determining the number of employees performing work for an employer pursuant to this subsection, all employees performing work for compensation on a full-time, part-time or temporary basis shall be counted, provided that where the number of employees who work for an employer per week fluctuates, the number of employees for the current calendar year may be based upon the average number of employees who worked per week during the preceding calendar year.

3. Domestic workers shall accrue a minimum of one hour of sick time for every seven days worked, which shall be in addition to the one day of rest provided for in New York State Labor Law section 161(1). All domestic workers employed by any employer, regardless of the number of domestic workers employed, shall be entitled to earn and use up to 40 hours of earned paid sick time in a year, unless the employer selects a higher limit.
4. Forty (40) hours is the maximum amount of sick leave to be accrued in a year.

Sec. 585.04. Employer's Options; Collective Bargaining Agreements.

1. Nothing in this Chapter shall be construed to discourage or prohibit an employer from allowing the accrual of earned sick time at a faster rate than provided herein; or from providing more sick time than provided herein.
2. In lieu of calculating the accrual of earned sick time, an employer shall have the option to provide an employee with sick time and personal time which if combined equals forty (40) hours or more per calendar year, or the year as determined by the employer (i.e., anniversary date). Such an employer shall be in compliance with this law, provided that the employee is permitted to take time as needed for sick time, with no advance notice necessary and no restrictions are placed on use of earned sick time other than those contained in this Chapter.
3. If an employer has employees whose sick/personal time are covered by a valid collective bargaining agreement that does not meet the requirements set forth in subsection 2 above, the employer must comply with the provisions of this law unless such provisions are expressly waived in the collective bargaining agreement.

Sec. 585.05. Protections for Earned Sick Leave.

1. Earned sick time that has not been utilized can be carried over to the following year, provided that the maximum amount of sick leave for any given year remains at forty (40) hours.
2. If any employee, including domestic workers, is transferred to a separate division, entity or location within Westchester County, but remains employed by the same employer, the employee is entitled to all unused earned sick time accrued at the prior division, entity or location provided that said prior division, entity or location is also located in Westchester County.
3. When there is a separation from employment and the employee is rehired within 9 months of separation by the same employer, previously accrued earned sick time that had not been used shall be reinstated.

4. When one employer is succeeded by another employer, all employees of the original employer who remain employed by the successor employer are entitled to all the unused earned sick time they accrued when employed by the original employer.

Sec. 585.06. Use of Earned Sick Time.

1. All earned sick time may be used for:
 - a. An employee's mental or physical illness, injury or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; an employee's need for preventive medical care;
 - b. The care of a family member with a mental or physical illness, injury or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; and care of a family member who needs preventive medical care;
 - c. Any employer who is willing to pay for the use of an employee's earned sick time, may authorize an employee to utilize sick time if the employer reasonably determines that an employee's mental or physical illness, injury or health condition or an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition requires immediate attention;
 - d. The care for an employee or family member when it has been determined by the public health authorities having jurisdiction that the employee's or family member's presence in the community may jeopardize the health of others because of his or her exposure to a communicable disease where or not the employee or family member has actually contracted the communicable disease;
 - e. The closure of the employee's place of business by order of a public official due to a public health emergency;
 - f. The closure of a day care or elementary or secondary school attended by an employee's child where such closure was due to a public health emergency.
2. An employee's ability to use earned sick time may be delayed until the employee has worked for the employer for 90 days.
3. In the event that an employee only needs to use a portion of a day of earned sick time, an employee may use a minimum of four hours and, if more time is needed, then the smallest increment that the employer's payroll system uses to account for absence or use of other time.
4. At its discretion, an employer may loan earned sick time to an employee in advance of accrual by such employee.

5. Nothing in this section shall be construed as requiring an employer to provide financial or other reimbursement to an employee upon the employee's termination, resignation, retirement or other separation from employment for unused accrued earned sick time.

Sec. 585.07. Procedures Relating to the Request to Use Earned Sick Time.

1. Earned sick time shall be provided upon the request of an employee. Such request may be made orally, in writing, by electronic means or by any other means acceptable to the employer. When possible, the request shall include the expected duration of the absence.
2. When the use of earned sick time is foreseeable, the employee shall make a good faith effort to provide notice to the employer in advance and shall make a reasonable effort to schedule the use of earned sick time in a manner that does not unduly disrupt the operations of the employer.
3. An employer that requires notice of the need to use earned sick time shall provide a written policy that contains the procedures for the employee to provide notice. An employer that has not provided a copy of its written policy to the employee shall not deny earned sick time to the employee based on noncompliance with such policy.
4. An employer may not require, as a condition of an employee's use of earned sick time, that the employee find another employee to work during the time of the employee's absence.
5. For earned sick time of more than 3 consecutive work days, an employer may require the employee to provide reasonable documentation that the earned sick time has been used for a purpose covered by section 585.06 above. Documentation provided by the employee and signed by a health care professional indicating that earned sick time is necessary shall be considered reasonable documentation for purposes of this section. The employer cannot require a doctor to provide a note containing information in violation of HIPAA.

Sec. 585.08. Exercise of Rights Protected; Retaliatory Personnel Actions Prohibited

1. It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, the right to use earned sick leave.
2. It shall be unlawful for an employer to include used earned sick time as an absence that may lead to or result in discipline, discharge, demotion, or suspension.
3. An employer shall not take retaliatory personnel action or discriminate against an employee because the employee has requested to use or has used earned sick time.

4. An employer shall not take retaliatory personnel action or discriminate against an employee that has filed a complaint regarding an employer's alleged violation of this Earned Sick Leave Law.
5. An employer shall not take retaliatory personnel action or discriminate against an employee that has informed another employee of his or her rights under the Earned Sick Leave Law.
6. There shall be a rebuttable presumption of unlawful retaliatory personnel action whenever an employer takes adverse action against an employee within 90 days of the filing of a complaint regarding an employer's alleged violation of this Earned Sick Leave Law.

Sec. 585.09. Notice and Posting.

1. At the commencement of employment or within 90 days of the effective date of this law, whichever is later, all employers shall give employees a copy of the Earned Sick Leave Law and written notice of how the law applies to that employee.
2. Employers shall display a copy of the Earned Sick Leave Law and a poster in English, Spanish and any other language deemed appropriate by the County of Westchester, in a conspicuous location accessible to the employee.
3. An employer who willfully violates the notice and posting requirements of this section shall be subject to a civil fine in an amount not to exceed \$500 for each separate offense.

Sec. 585.10. Employer Records.

1. Employers shall retain records clearly documenting the hours worked by employees and earned sick time accrued and taken by employees, for a period of three years.
2. There shall be a rebuttable presumption of a violation of the Earned Sick Leave Law for an employer's failure to retain records in accordance with subdivision 1.

Sec. 585.11. Enforcement, Civil Action and Penalties.

1. The County shall determine an appropriate administrative remedy prior to the effective date.
2. Any person who claims to have been aggrieved by a violation of this Chapter may commence a civil action in the appropriate court of jurisdiction not later than one (1) year after the occurrence of an alleged violation.
3. If the court finds an unlawful violation has occurred, the court may:
 - a. Require the employer to pay three times the wages that should have been paid under this Chapter or two hundred fifty dollars, whichever is greater for

each instance of sick time taken by an employee but unlawfully not compensated by the employer;

- b. Require the employer to pay five hundred dollars for each instance of sick time requested by an employee but unlawfully denied by the employer and not taken by the employee or unlawfully conditioned upon searching for or finding another employee to work;
- c. Grant such additional as relief, as it deems appropriate, the full amount of any unpaid earned sick time plus any actual damages suffered as the result of the employer's violation of the Earned Sick Leave Law, reasonable attorney's fees, and other legal or equitable relief as may be appropriate, without limitation, reinstatement to employment and back pay.

Sec. 585.12. Confidentiality and Nondisclosure.

- 1. Health information about an employee or family member obtained solely for the purposes of utilizing sick time shall be treated as confidential and shall not be disclosed except with the written permission of the affected employee, unless such disclosure is otherwise required by law.
- 2. Any health or safety information possessed by an employer regarding an employee or employee's family member must be maintained on a separate form and in a separate file from other personnel information.

Sec. 585.13. Other Legal Requirements.

This Chapter provides minimum requirements pertaining to earned sick time and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, or policy that provides for greater accrual or use by employees of earned sick time or that extends other protections to employees. In addition, nothing in this Chapter shall be construed to prevent, interfere or conflict with any rights of an employee under the New York Disability Benefits Law and Paid Family Leave Benefits Law, N.Y. Workers' Comp. Law § 200 et seq.

Sec. 585.14. Public Education and Outreach.

The Westchester County Human Rights Commission shall develop and implement a multilingual outreach program to inform employees, parents and persons who are under the care of a health care provider about the availability of earned sick time under this Chapter. This program shall include the distribution of notices and other written materials in English and Spanish and any language deemed appropriate by the Westchester County Human Rights Commission to child care and elder care providers, domestic violence shelters, schools, hospitals, community health centers and other health care providers in Westchester County.

Sec. 585.15. Reverse Preemption.

This local law shall be null and void on the day that Statewide or Federal legislation goes

into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent State or Federal administrative agency issues and promulgates regulations preempting such action by the County of Westchester. The Board of Legislators may determine via resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

Sec. 585.16. Severability.

If any provision of this Chapter or application thereof to any person or circumstance is judged invalid, the invalidity shall not affect other provisions or applications of the Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared severable.

§2. This Local Law shall take effect 180 days after its adoption, except that in the case of employers who have employees covered by a collective bargaining agreement as specified in Section 585.04(3), this local law shall apply beginning on the stated expiration date in the collective bargaining agreement.

8/3/2018 pm

Attachment: LL - Paid Sick Leave for Certain Employees - DRAFT 5 (10623 : Paid sick leave for Certain Employees)

TO: HONORABLE BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee has reviewed “A LOCAL LAW amending the Laws of Westchester County to add a new Chapter 585 which will provide earned sick leave for certain employees.”

Your Committee is aware that roughly 36% of workers in Westchester County lack paid sick time, and low-income and part-time workers are especially unlikely to be covered. Access to paid sick time promotes safe and healthy work environments by reducing the spread of illness, health care costs, and work-family conflict by providing greater flexibility to fulfill caregiving responsibilities.

Your Committee is informed that, according to the Institute for Women's Policy Research analysis 2012-2014 National Health Interview Survey (NHIS) and the 2012-2014 Integrated Public Use Microdata Series American Community Survey, 50% of Hispanic workers, 33% of Black workers, and 32% of Asian workers in Westchester County lack access to paid sick time. Additionally, state and local government workers are much more likely than private sector workers to have paid sick time: 87% of state and local government workers have access to paid sick time in Westchester County compared with 60% of private sector workers.

Your Committee notes that research shows that workers without access to paid sick time are three times more likely to forgo treatment for themselves and almost two times more likely to forgo care for a family member compared with workers who have paid sick time. Further, a recent study found that employers who provided paid sick time to their employees reported fewer

occupational injuries among employees than those who did not have paid sick time coverage.

Your Committee is also aware that paid sick time allows parents to provide personal care for their sick children. Parental care makes children's recoveries faster and can prevent future health problems. When parents don't have paid sick time, they are more than twice as likely as parents with paid sick time to send a sick child to school or daycare thereby spreading the illness to others, and five times as likely to report taking their child or a family member to the emergency room because they were unable to take time off work during normal work hours.

Your Committee has been informed that paid sick time will reduce recovery time and decrease the likelihood of spreading illness to other members of the workforce and to the public. For example, during the H1N1 flu pandemic of 2009, researchers estimate that 5 million cases of the flu would have been prevented if a federal law providing paid sick time had been in place. *See A Better Balance Report by Supriya Kumar, et al., "The impact of Workplace Policies and Other Social Factors on the Self-Reported Influenza-Like Illness Incidence During the 2009 H1N1 Pandemic"*.

Paid sick time will reduce health care expenditures. Emergency room visits increase health care costs on taxpayers. According to the Institute for Women's Policy Research ("IWPR") report, providing all workers with paid sick time nationally would reduce visits to hospital emergency departments and save \$1 billion per year in medical costs, including more than \$500 million in savings to publicly funded health insurance programs such as Medicare, Medicaid, and Child Health Plus. *See IWPR Access to Paid Sick Days Would Reduce Health Costs.* As baby

boomers age, more and more elderly individuals will need support from family caregivers to lead healthy, independent lives. Paid sick time allows employees to take off work in order to care for an elderly family member, including taking the individual to a doctor's appointment or providing care during a health emergency.

Your Committee is further informed that providing paid sick time is good for a company's bottom line. Researchers estimate that the total cost of "presenteeism," where employees go to work sick and are less productive, is more than \$150 billion per year. Sick workers also spread disease to their co-workers. Paid sick time also results in reduced voluntary and involuntary turnover. It costs an employer 150% of a salaried employee's yearly salary to replace him or her. For an hourly employee, turnover costs the employer anywhere from 50% to 75% of the employee's annual pay. Since enacting a paid sick time law in 2007, San Francisco has performed better than surrounding counties in terms of total employment. *See A Better Balance* – from reports by Paul Hemp, Vicky Lovell, Jodie Levin-Epstein and John Petro. Ensuring that all employers provide paid sick time, levels the playing field for employers who don't already provide this benefit and lets companies choose employees from a larger pool of people, allowing everyone to benefit.

Your Committee additionally notes that once paid sick time laws are enacted they are popular with both business and workers. For example, businesses in New York City look very positively on the law now that it has been in effect for several years. 86% of employers surveyed said they had a positive view of the law and a whopping 98% said they had seen no instances of abuse. *See Appelbaum and Milkman, "No Big Deal: The Impact of New York City's Paid Sick*

Days Law on Employers.” Golden Gate Restaurant Association, in San Francisco, while originally an opponent, has since said the paid sick time law was successful and “the best public policy for the least cost,” also acknowledging that employees have not abused paid sick leave.

According to a study by A Better Balance entitled “Overview of Paid Sick Time Laws in the United States”, at least 41 jurisdictions nationwide, including 7 states, have enacted laws requiring employers to provide paid sick time to their employees. None of those jurisdictions have experienced negative economic consequences as a result of their paid sick time law. New York City showed steady job growth in the year after the law went into effect; San Francisco showed stronger job growth than in surrounding counties in the year after their law went into effect; Washington D.C. and Seattle saw no negative economic effects following implementation of their paid sick time law in either job loss or movement of businesses out of the city. According to a study by Appelbaum and Milkman entitled “Good for Business? The Case of Paid Sick Leave in Connecticut”, employers that already offered paid sick days made minimal or no adjustments to comply with Connecticut’s paid sick leave law. The study further indicated that the average usage in Connecticut was 4 days and half of the employers reported employees used 3 days of less. The study also noted that only minimal abuse was reported in Connecticut and what was reported was consistent with the minimal abuse which was experienced before Connecticut’s paid sick leave law took effect. *See also* New York Paid Leave Coalition’s PowerPoint entitled “Time to Care”.

Your Committee further notes that Westchester County workers in service, transportation, and manufacturing occupations are less likely to have paid sick time. 54% in service occupations and 47% in transportation and manufacturing occupations do not have access to this benefit. This includes food service workers and home health aides, two groups which can very easily, and

rapidly, spread disease. The proposed legislation intends to address these issues by providing employees with a maximum of 40 hours of earned sick leave per year and setting forth the parameters of when such earned sick leave may be used and protecting the employees from adverse employment action for appropriately exercising their right to use their earned sick time. Whether or not the earned sick leave will be paid will be determined by the number of employees employed by the employer.

Upon enactment of this law, it is anticipated that this law will be enforced by short term and long term measures. Initially, employers and employees will be provided with the requisite information as to administration and enforcement of the law. If necessary, the County may contract with an entity to monitor and oversee compliance and to report to the County Board as to the progress relating to the requisite transition. Finally, the County shall determine an appropriate administrative remedy prior to the effective date.

As you know, this Honorable Board must comply with the requirements of the State Environmental Quality Review Act (“SEQRA”). Your Committee is advised that the Department of Planning has reviewed the applicable SEQRA regulations, and has concluded that since this proposed local law will not “change the use, appearance or condition of any natural resource or structure,” or otherwise affect the environment, with respect to the State Environmental Quality Review (SEQR) Act, this does not constitute an action as defined in section 617.2(b) of 6NYCRR Part 617. As such, no environmental review is required. Your Committee concurs with that conclusion.

An affirmative vote of a majority of the voting strength of your Honorable Board is required for approval of this Local Law.

In light of the aforementioned, your Committee, after careful consideration, recommends the adoption of this local law.

Dated: _____, 2018
White Plains, New York

COMMITTEE ON

8-3-18

RESOLUTION NO. ____ – 2018

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. ____ - 2018, entitled “A LOCAL LAW amending the Laws of Westchester County to add a new Chapter 585 which will provide earned sick leave for certain employees.” The public hearing will be held at __.m. on the ____ day of _____, 2018 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.

Attachment: LL-Earned Sick Leave for Certain Employees-DRAFT 6 (10623 : Paid sick leave for Certain Employees)

LOCAL LAW INTRO. NO. - 2018

A LOCAL LAW amending the Laws of Westchester County to add a new Chapter 585 which will provide earned sick leave for certain employees.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. A new Chapter 585 is hereby added to the Laws of Westchester County to read as follows:

Chapter 585 - EARNED SICK LEAVE LAW

Sec. 585.01. Short Title.

Sec. 585.02. Definitions.

Sec. 585.03. Accrual of Earned Sick Time.

Sec. 585.04. Employer's Options; Collective Bargaining Agreements.

Sec. 585.05. Protections for Accrued Earned Sick Time.

Sec. 585.06. Use of Earned Sick Time.

**Sec. 585.07. Procedures Relating to the Request to Use
Earned Sick Time.**

**Sec. 585.08. Exercise of Rights Protected;
Retaliatory Personnel Actions Prohibited.**

Sec. 585.09. Notice and Posting.

Sec. 585.10. Employer Records.

Sec. 585.11. Civil Action and Penalties.

Sec. 585.12. Confidentiality and Nondisclosure.

Sec. 585.13. Other Legal Requirements.

Sec. 585.14. Public Education and Outreach.

Sec. 585.15. Reverse Preemption.

Sec. 585.16. Severability.

Sec. 585.01. Short Title.

This Chapter shall be known as and may be cited as the "Earned Sick Leave Law."

Sec. 585.02. Definitions.

For Purposes of this Chapter:

1. "Calendar year" shall mean from January 1 to December 31 in any given year.
2. "Child" shall mean, regardless of age, a biological, adopted, foster child, legal ward or a person to whom the employee stands in *loco parentis* or to whom the employee stood in *loco parentis* when that person was a minor.
3. "Domestic partner" shall mean any "domestic partner" as defined under New York State Workers' Compensation Law section 4(1).
4. "Domestic worker" shall mean any domestic worker as defined in section 2(16) of the New York State Labor Law who is employed for hire within the Westchester County for more than eighty hours in a calendar year on a full-time or part-time basis.
5. "Earned sick time" means time that is accrued in accordance with 585.03 or calculated in accordance with 585.04 to be utilized for the purposes provided in Section 585.06 of this Chapter.
6. "Employee" shall any person employed for hire by an employer in any employment within Westchester County for more than 80 hours in a calendar year who performs work on a full-time or part-time basis, including work performed in subsidized private sector and not-for-profit employment programs, but not including:
 - a. work performed as a participant in a work experience program established by a social services district;
 - b. work performed pursuant to work study programs under 42 U.S.C. section 2753;
 - c. work performed by employees compensated by or through qualified scholarships as defined in 26 U.S.C. section 117.
7. "Employer" shall mean any "employer" as defined in section 190(3) of New York State Labor Law, except that an employer includes Westchester County government.
8. "Family member" means: an employee's child, spouse, domestic partner, parent, sibling, grandchild or grandparent; and the child or parent of an employee's spouse, domestic partner or household member. For purposes of this subsection, "household member" shall mean (i) persons related by consanguinity or affinity; (ii) persons legally married to or in a domestic partnership with one another; (iii) persons formerly married to or in a domestic partnership with one another regardless of whether they still reside in the same household; (iv) persons who have a child in common, regardless of whether such persons have been married or domestic partners or have lived together at any time; and (v) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time.

9. "Health care professional" means any person licensed under Federal or State law to provide medical or emergency services, including but not limited to doctors, nurses, midwives and emergency room personnel.
10. "Parent" shall mean a biological, foster, step- or adoptive parent, a legal guardian of an employee or a person who stood in loco parentis when the employee was a minor.
11. "Personal time" shall mean leave with pay for personal business including, but not limited to, use for religious observance, attendance at funerals, necessary absences due to extraordinary weather conditions, attendance at conventions other than on required business, personal or family business appointments and similar reasons.
12. Persons who are "in loco parentis" shall mean those with day-to-day responsibilities to care for and financially support a child, or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.
13. Retaliatory personnel action" means denial of any right guaranteed under this Chapter or any threat, discharge, suspension, demotion, reduction of hours, reporting or threatening to report an employee's suspected citizenship or immigration status, or the suspected citizenship or immigration status of a family member of the employee to a federal, state or local agency, or any other adverse action against an employee for the exercise of any right guaranteed herein including any sanctions against an employee who is the recipient of public benefits for rights guaranteed under this Chapter. Retaliation shall also include interference with or punishment for in any manner participating in or assisting an investigation, proceeding or hearing under this Chapter.
14. "Year", other than "calendar year" means a regular and consecutive 12-month period as determined by the employer.

Sec. 585.03. Accrual of Earned Sick Time.

1. At the commencement of employment or 90 days after this law goes into effect, whichever is later, all employees, except for domestic workers, shall accrue a minimum of one hour of sick time for every 30 hours worked.
2. Employees of an employer with 5 or more employees shall be entitled to earn and use up to 40 hours of paid sick time in a year, unless the employer selects a higher limit. Paid sick time shall be compensated at the same hourly rate as the employee normally earns during hours worked, but in no case shall this hourly amount be less than that provided under section 652(1) of the labor law of New York. Employees of an employer with fewer than 5 employees shall be entitled to earn and use up to 40 hours of unpaid sick time in a year. In determining the number of employees performing work for an employer pursuant to this subsection, all employees performing work for compensation on a full-time, part-time or temporary basis shall be counted, provided that where the number of employees who work for an employer per week fluctuates, the number of employees for the current calendar year may be based upon the average number of employees who worked per week during the preceding calendar year.

3. Domestic workers shall accrue a minimum of one hour of sick time for every seven days worked, which shall be in addition to the one day of rest provided for in New York State Labor Law section 161(1). All domestic workers employed by any employer, regardless of the number of domestic workers employed, shall be entitled to earn and use up to 40 hours of earned paid sick time in a year, unless the employer selects a higher limit.
4. Forty (40) hours is the maximum amount of sick leave to be accrued in a year.

Sec. 585.04. Employer's Options: Collective Bargaining Agreements.

1. Nothing in this Chapter shall be construed to discourage or prohibit an employer from allowing the accrual of earned sick time at a faster rate than provided herein; or from providing more sick time than provided herein.
2. In lieu of calculating the accrual of earned sick time, an employer shall have the option to provide an employee with sick time and personal time which if combined equals forty (40) hours or more per calendar year, or the year as determined by the employer (i.e., anniversary date). Such an employer shall be in compliance with this law, provided that the employee is permitted to take time as needed for sick time, with no advance notice necessary and no restrictions are placed on use of earned sick time other than those contained in this Chapter.
3. Nothing in this Chapter shall be construed as diminishing the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan or other agreement providing more generous paid sick time to an employee than required herein. Nothing in this Chapter shall be construed as diminishing the rights of public employees regarding paid sick time or use of paid sick time as provided in the laws of New York State or Westchester County pertaining to public employees.
 - a. The provisions of this chapter shall not apply to any employee covered by a valid collective bargaining agreement if:
 - (i) such provisions are expressly waived in such collective bargaining agreement;
 - and
 - (ii) such agreement provides for a comparable benefit for the employees covered by such agreement in the form of paid days off; such paid days off shall be in the form of leave, compensation, other employee benefits, or some combination thereof. Comparable benefits shall include, but are not limited to, vacation time, personal time, sick time, and holiday and Sunday time pay at premium rates.
 - b. Notwithstanding subdivision a of this section, the provisions of this chapter shall not apply to any employee in the construction or grocery industry covered by a valid collective bargaining agreement if such provisions are expressly waived in such collective bargaining agreement.

Sec. 585.05. Protections for Earned Sick Leave.

1. Earned sick time that has not been utilized can be carried over to the following year, provided that the maximum amount of sick leave for any given year remains at forty (40) hours.
2. If any employee, including domestic workers, is transferred to a separate division, entity or location within Westchester County, but remains employed by the same employer, the employee is entitled to all unused earned sick time accrued at the prior division, entity or location provided that said prior division, entity or location is also located in Westchester County.
3. When there is a separation from employment and the employee is rehired within 9 months of separation by the same employer, previously accrued earned sick time that had not been used shall be reinstated.
4. When one employer is succeeded by another employer, all employees of the original employer who remain employed by the successor employer are entitled to all the unused earned sick time they accrued when employed by the original employer.

Sec. 585.06. Use of Earned Sick Time.

1. All earned sick time may be used for:
 - a. An employee's mental or physical illness, injury or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; an employee's need for preventive medical care;
 - b. The care of a family member with a mental or physical illness, injury or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; and care of a family member who needs preventive medical care;
 - c. Any employer who is willing to pay for the use of an employee's earned sick time, may authorize an employee to utilize sick time if the employer reasonably determines that an employee's mental or physical illness, injury or health condition or an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition requires immediate attention;
 - d. The care for an employee or family member when it has been determined by the public health authorities having jurisdiction that the employee's or family member's presence in the community may jeopardize the health of others because of his or her exposure to a communicable disease where or not the employee or family member has actually contracted the communicable disease;

- e. The closure of the employee's place of business by order of a public official due to a public health emergency;
- f. The closure of a day care or elementary or secondary school attended by an employee's child where such closure was due to a public health emergency.
- 2. An employee's ability to use earned sick time may be delayed until the employee has worked for the employer for 90 days.
- 3. In the event that an employee only needs to use a portion of a day of earned sick time, an employee may use a minimum of four hours and, if more time is needed, then the smallest increment that the employer's payroll system uses to account for absence or use of other time.
- 4. At its discretion, an employer may loan earned sick time to an employee in advance of accrual by such employee.
- 5. Nothing in this section shall be construed as requiring an employer to provide financial or other reimbursement to an employee upon the employee's termination, resignation, retirement or other separation from employment for unused accrued earned sick time.

Sec. 585.07. Procedures Relating to the Request to Use Earned Sick Time.

- 1. Earned sick time shall be provided upon the request of an employee. Such request may be made orally, in writing, by electronic means or by any other means acceptable to the employer. When possible, the request shall include the expected duration of the absence.
- 2. When the use of earned sick time is foreseeable, the employee shall make a good faith effort to provide notice to the employer in advance and shall make a reasonable effort to schedule the use of earned sick time in a manner that does not unduly disrupt the operations of the employer.
- 3. An employer that requires notice of the need to use earned sick time shall provide a written policy that contains the procedures for the employee to provide notice. An employer that has not provided a copy of its written policy to the employee shall not deny earned sick time to the employee based on noncompliance with such policy.
- 4. An employer may not require, as a condition of an employee's use of earned sick time, that the employee find another employee to work during the time of the employee's absence.
- 5. For earned sick time of more than 3 consecutive work days, an employer may require the employee to provide reasonable documentation that the earned sick

time has been used for a purpose covered by section 585.06 above. Documentation provided by the employee and signed by a health care professional indicating that earned sick time is necessary shall be considered reasonable documentation for purposes of this section. The employer cannot require a doctor to provide a note containing information in violation of HIPAA.

Sec. 585.08. Exercise of Rights Protected; Retaliatory Personnel Actions Prohibited

1. It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, the right to use earned sick leave.
2. It shall be unlawful for an employer to include used earned sick time as an absence that may lead to or result in discipline, discharge, demotion, or suspension.
3. An employer shall not take retaliatory personnel action or discriminate against an employee because the employee has requested to use or has used earned sick time.
4. An employer shall not take retaliatory personnel action or discriminate against an employee that has filed a complaint regarding an employer's alleged violation of this Earned Sick Leave Law.
5. An employer shall not take retaliatory personnel action or discriminate against an employee that has informed another employee of his or her rights under the Earned Sick Leave Law.
6. There shall be a rebuttable presumption of unlawful retaliatory personnel action whenever an employer takes adverse action against an employee within 90 days of the filing of a complaint regarding an employer's alleged violation of this Earned Sick Leave Law.

Sec. 585.09. Notice and Posting.

1. At the commencement of employment or within 90 days of the effective date of this law, whichever is later, all employers shall give employees a copy of the Earned Sick Leave Law and written notice of how the law applies to that employee.
2. Employers shall display a copy of the Earned Sick Leave Law and a poster in English, Spanish and any other language deemed appropriate by the County of Westchester, in a conspicuous location accessible to the employee.
3. An employer who willfully violates the notice and posting requirements of this section shall be subject to a civil fine in an amount not to exceed \$500 for each separate offense.

Sec. 585.10. Employer Records.

1. Employers shall retain records clearly documenting the hours worked by employees and earned sick time accrued and taken by employees, for a period of three years.

2. There shall be a rebuttable presumption of a violation of the Earned Sick Leave Law for an employer's failure to retain records in accordance with subdivision 1.

Sec. 585.11. Enforcement, Civil Action and Penalties.

1. The County shall determine an appropriate administrative remedy prior to the effective date.
2. Any person who claims to have been aggrieved by a violation of this Chapter may commence a civil action in the appropriate court of jurisdiction not later than one (1) year after the occurrence of an alleged violation.
3. If the court finds an unlawful violation has occurred, the court may:
 - a. Require the employer to pay three times the wages that should have been paid under this Chapter or two hundred fifty dollars, whichever is greater for each instance of sick time taken by an employee but unlawfully not compensated by the employer;
 - b. Require the employer to pay five hundred dollars for each instance of sick time requested by an employee but unlawfully denied by the employer and not taken by the employee or unlawfully conditioned upon searching for or finding another employee to work;
 - c. Grant such additional as relief, as it deems appropriate, the full amount of any unpaid earned sick time plus any actual damages suffered as the result of the employer's violation of the Earned Sick Leave Law, reasonable attorney's fees, and other legal or equitable relief as may be appropriate, without limitation, reinstatement to employment and back pay.

Sec. 585.12. Confidentiality and Nondisclosure.

1. Health information about an employee or family member obtained solely for the purposes of utilizing sick time shall be treated as confidential and shall not be disclosed except with the written permission of the affected employee, unless such disclosure is otherwise required by law.
2. Any health or safety information possessed by an employer regarding an employee or employee's family member must be maintained on a separate form and in a separate file from other personnel information.

Sec. 585.13. Other Legal Requirements.

This Chapter provides minimum requirements pertaining to earned sick time and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation,

requirement, or policy that provides for greater accrual or use by employees of earned sick time or that extends other protections to employees. In addition, nothing in this Chapter shall be construed to prevent, interfere or conflict with any rights of an employee under the New York Disability Benefits Law and Paid Family Leave Benefits Law, N.Y. Workers' Comp. Law § 200 et seq.

Sec. 585.14. Public Education and Outreach.

The Westchester County Human Rights Commission shall develop and implement a multilingual outreach program to inform employees, parents and persons who are under the care of a health care provider about the availability of earned sick time under this Chapter. This program shall include the distribution of notices and other written materials in English and Spanish and any language deemed appropriate by the Westchester County Human Rights Commission to child care and elder care providers, domestic violence shelters, schools, hospitals, community health centers and other health care providers in Westchester County.

Sec. 585.15. Reverse Preemption.

This local law shall be null and void on the day that Statewide or Federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent State or Federal administrative agency issues and promulgates regulations preempting such action by the County of Westchester. The Board of Legislators may determine via resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

Sec. 585.16. Severability.

If any provision of this Chapter or application thereof to any person or circumstance is judged invalid, the invalidity shall not affect other provisions or applications of the Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared severable.

§2. This Local Law shall take effect 180 days after its adoption, except that in the case of employers who have employees covered by a collective bargaining agreement as specified in Section 585.04(3), this local law shall apply beginning on the stated expiration date in the collective bargaining agreement.

8/3/2018 5 pm

Margaret A. Cunzio

Legislator, 3rd District

Chair, Appointments Committee



Voice of the People of Westchester County for over 300 years

Committee Assignments:
Budget & Appropriations
Labor/Parks/Planning/Housing

MEMORANDUM

TO: Benjamin Boykin, Chair, Board of Legislators

FROM: Margaret Cunzio, Legislator – 3rd District

DATE: March 14th, 2018

RE: Hammond, Bill (2018, March 12) Single-payer's SALT problem [Blog Post]

Please add attached article to the agenda of the March 26, 2018 Board Meeting.

Attachment: COMM - Empirecenter.org Article - "Single-payer's SALT problem" - DRAFT (10769 : Empirecenter.org Article - "Single-payer's

EMPIRE CENTER



Single-payer's SALT problem

by Bill Hammond | March 12, 2018 | NY Torch



A statewide single-payer health plan that passed the Assembly three years in a row is due to make its annual stop at the chamber's Health Committee on Tuesday morning.

This time around, lawmakers have a new reason to be wary: Due to recent changes in the federal tax code, the already exorbitant cost of single-payer for New York taxpayers has gotten even steeper.

Sponsored by longtime Assembly Health Chairman Richard Gottfried (D-Manhattan) the New York Health Act (A. 4738-a) would commit Albany to paying 100 percent of medical costs for all 20 million of the state's residents – adding hundreds of billions of dollars to the state budget.

To cover those costs, the bill would impose two new taxes—one on payrolls, and another on non-payroll income such as interest, capital gains and other investment proceeds.

Previously, both of those levies would have been fully deductible from federal taxes, mitigating their bite for many New Yorkers. But federal tax changes enacted in December capped the deduction for state and local taxes, known as SALT, at \$10,000 per year—a limit that a significant fraction of the state's residents already exceed.

The new policy does not affect payroll taxes, which remain deductible. But the cap would apply to the New York Health Act's proposed tax on non-payroll income—increasing the net cost to taxpayers by 10 percent to 37 percent, depending on their income bracket.

The dollar amounts involved are impossible to estimate, because the bill text leaves details of the tax hikes to be determined later. But they are sure to be large.

Even single-payer supporters acknowledge, based on the dubious estimate of a single economics professor, that such a plan would require the state to raise an additional \$92 billion a year in revenue. That's the equivalent of a 118 percent hike in every tax the state currently collects. Since the plan specifies no cost controls—and promises to cover every visit, test, procedure and prescription with no referrals, no restrictions on choice of provider and no copayments or deductibles—the real price tag is likely to go far higher.

Proponents have argued that the tax hikes would be offset by the savings on private insurance premiums that New Yorkers and their employers would no longer have to pay. But employer-sponsored benefits are fully deductible, while one of the two proposed taxes no longer would be, adding billions to the net impact.

Another cause for concern is the lack of any Congressional Budget Office-style cost-benefit analysis the plan's feasibility, by the Health Department or anyone else. Such a step would be routine in Congress and in many other states, and should be a minimum precaution in this case.

As it happens, the New York State Health Foundation has commissioned such a study by the RAND Corporation, with the results expected to be published this summer. Given that single-payer would disrupt the coverage of every New Yorker and fundamentally restructure 20 percent of the state's economy, waiting to hear from outside experts is the least lawmakers should do.

Comments

2 comments

MaryJane Shimsky

Legislator, 12th District

Majority Whip

Chair, Committee on Public Works



Voice of the People of Westchester County for over 300 years

Committee Assignments:

Appointments

Environment, Health & Energy

Law & Major Contracts

Legislation

Parks, Planning & Economic Development

Public Safety

Seniors & Constituencies

Social Services

MEMORANDUM

TO: Benjamin Boykin, Chair, Board of Legislators
FROM: MaryJane Shimsky, Legislator – 12th District
DATE: April 9th, 2018
RE: *The New York Times* Editorial: "Tax web sales, New York"

Please add the attached *editorial* to the B&A and LEG committees.

"Tax web sales, New York"

April 9th, 2018

Page | 2

THE ISSUE:

New York is considering collecting sales tax from third-party internet retailers.

THE STAKES:

Doing so is only fair and would provide needed revenue while protecting the brick-and-mortar businesses located here.

Many online retailers who have no physical presence in New York have an unfair advantage over local merchants: They can avoid state and local sales taxes. That's an unfair competitive edge, and it's time for the state legislature to end it.

As internet sales have grown, the state and counties across New York have lost millions of dollars in revenue. Large companies like Amazon pay state and local taxes for items they sell directly, but many independent, third-party companies that use platforms like Amazon, Wayfair and eBay don't charge sales taxes.

This tax avoidance is permitted by a 1992 U.S. Supreme Court ruling favoring an Illinois-based office supplier that was a pioneer in e-commerce. But that was back when online sales were a relatively small and fledgling phenomenon. It seemed reasonable not to burden those struggling to create a new, online marketplace.

Now online retailing is, to say the least, full-grown. Last year, internet retail sales in the U.S. totaled close to \$500 billion, according to One Click Retail, which tracks and analyzes online sales.

A group of county finance officials from across the state estimates that uncollected taxes from internet sales cost New York counties \$140 million a year. It's not really giving taxpayers a break, because many local governments have made up for those lost revenues by raising property taxes.

Many states, including Pennsylvania, Minnesota and Rhode Island, now collect their state sales taxes on third-party internet commerce. Others are waiting for an upcoming U.S. Supreme Court case, to be argued in April, involving South Dakota and Wayfair, which sells home furnishings on the web.

Gov. Andrew Cuomo, with the support of the Democrat-controlled Assembly, wants New York to enact its own law and start collecting the taxes. The Republican-controlled Senate is opposed. Senate leaders, a spokesman says, stand against any new taxes, even on the internet. Even the Business Council of New York, normally an advocate of large and small businesses, is opposed to requiring web-based platforms to collect sales tax on behalf of the out-of-state, third-party sellers. The council contends a patchwork approach across the U.S. is the wrong solution.

"Tax web sales, New York"

April 9th, 2018

Page | 3

In principle, that's right. Congress should fix this by recognizing that internet technology and popularity have reached a level where online businesses no longer merit any special accommodation over brick-and-mortar retailers. But practically speaking, the current Congress is unlikely to act on anything that has the appearance of imposing a new tax.

That, of course, mischaracterizes the issue. Government services aren't free, and sales tax is one way we pay for them. Requiring internet retail sellers to collect sales tax would end the growing tax avoidance in the marketplace. And it would put all businesses on a more level playing field. That should transcend party lines.

MaryJane Shimsky

Legislator, 12th District

Majority Whip

Chair, Committee on Public Works



Voice of the People of Westchester County for over 300 years

Committee Assignments:

Appointments

Environment, Health & Energy

Law & Major Contracts

Legislation

Parks, Planning & Economic Development

Public Safety

Seniors & Constituencies

Social Services

MEMORANDUM

TO: Benjamin Boykin, Chair, Board of Legislators
FROM: MaryJane Shimsky, Legislator – 12th District
DATE: April 9th, 2018
RE: NYSAC Blog: "County Executives Voice Bipartisan Support for Internet Fairness Act"

Please add the attached to the B&A and LEG committees.

Attachment: COMM - NYSAC Blog Article - "County Executives Voice Bipartisan Support for Internet Fairness Act" - DRAFT (10810 :

“County Executives Voice Bipartisan Support for Internet Fairness Act”

April 9th, 2018

Page | 2

The state's outdated tax collection system is creating an unfair playing field for local retailers in New York versus their Internet based competitors, as many Internet retailers do not collect sales tax.

A bipartisan group of county executives from across New York State is supporting the Internet Fairness and Conformity Act. (See statements below.)

Counties and New York State have seen historically slow growth in sales tax revenues due to a combination of factors, including the Great Recession and an increase in Internet retail activity. The state's outdated tax collection system is creating an unfair playing field for local retailers in New York versus their Internet based competitors, as many Internet retailers do not collect sales tax. Brick and mortar retail stores in communities across the state have seen a reduction in retail activity, with some closing and laying off New Yorkers who work and live in our communities. In addition, counties rely on local sales tax receipts to offset property taxes and to deliver essential public services, while also providing a significant revenue source for cities, towns, school districts and villages through sales tax sharing arrangements.

The Governor is proposing to update New York's sales tax collections process to ensure that sales taxes owed are collected regardless of the method of purchase. The proposal would require large Internet marketplace providers to collect sales tax on behalf of all vendors that use their platform, and remit these sales taxes to the State. [To learn more about this proposal and read NYSAC's policy position, click here.](#)

County Executives from across the state voiced their support for modernizing internet sales tax in New York State:

“Our current sales tax collection process favors out-of-state businesses over main street and mall businesses that are owned and operated by people who live in our community. These are business owners who employ our family members, friends, and neighbors, and they belong to our Rotary Clubs and sponsor our little league teams. It's time for State Lawmakers to level the playing field for our Main Street businesses, and the best way to do that right now is to enact the Internet Fairness Conformity Act.”

-MaryEllen Odell, Putnam County Executive

“Governor Cuomo's Internet Fairness and Conformity Act is not a new tax. These taxes are owed under state law, but are not being collected due to an outdated state tax law. This Act modernizes our laws to account for changes in the way we all buy and sell products in New York. It streamlines the process and brings fairness to the brick and mortar stores in our communities, who pay sales taxes and pay property taxes. I strongly urge the legislature to enact this proposal as it will reduce burdens on small businesses, protect property taxpayers and preserve a critical revenue base all while creating a fairer retail marketplace for our local retailers.”

-Ed Day, Rockland County Executive

“Our local retailers are the backbone of our community and they are finding it more difficult to compete with the online marketplace. This isn't a new tax, this isn't a higher tax, it's simply standing up for our local businesses and ensuring they have a level playing field. Passing the Internet Fairness Conformity Act is the right thing to do.”

-Joanie Mahoney, Onondaga County Executive

“When our local businesses are put at a disadvantage, our entire community loses out – we lose stores, jobs, economic activity, and hubs of community connection. Local Oneida

“County Executives Voice Bipartisan Support for Internet Fairness Act”

April 9th, 2018

Page | 3

County businesses are at a competitive disadvantage against gigantic internet corporations that don't have to play by the same rules. It's time for the State Senate and Assembly to pass

the Internet Fairness Conformity Act to close this loophole that is hurting small businesses on every main street in every community in our County and our State.”

-Anthony J. Picente Jr., Oneida County Executive

“The businesses located right here in Montgomery County are at a competitive disadvantage against large online retailers that aren't made to play by the same rules. Our state leaders need to step up on behalf of New York businesses and close this loophole.”

-Matt Ossenfort, Montgomery County Executive

“The state's outdated tax collection system creates an unfair playing field tilted against retailers based in New York while favoring their Internet-based competitors housed in other states, as most third-party Internet retailers do not collect sales tax. Local retailers are struggling under the unfair advantage our outdated tax law gives to businesses in other states, and I urge the State Legislature to streamline this process and enact the Governor's Internet Sales Tax Conformity Act as part of the 2018/19 state budget.”

-Mark Poloncarz, Erie County Executive

“The proposal is not a new tax and does not increase sales taxes, but would help the brick-and-mortar businesses in our community to compete fairly with online retailers. It's time to stand up for our local businesses and close this loophole.”

-George Borrello, Chautauqua County Executive

“To fund our local government and state directed services, Broome County primarily has two sources of revenue: property taxes and sales taxes. The more collected through sales taxes, the less that is required from property taxes. Governor Cuomo has advanced a proposal in the state budget that helps protect our taxpayers and businesses by leveling the playing field with online retailers. It's an issue of fairness and I urge the State Legislature to enact the Governor's Sales Tax Conformity Act.”

-Jason Garnar, Broome County Executive

“We have tremendous retailers in Chemung County and they have long attracted shoppers from all over the region, including Pennsylvania. The growth of E-commerce has put a dent in this activity and our businesses are having a hard time competing with out-of-state retailers who aren't collecting sales taxes. The Internet Fairness Conformity Act would level the playing field and help keep our businesses competitive at a time when they most need our support. The Governor's Sales Tax Conformity Act is fair and reasonable and should be enacted as part of the 2018/19 state budget.”

-Tom Santulli, Chemung County Executive

“It is anti-competitive and anti-Long Island to subsidize a system that is simply unfair to small businesses. Healthy competition only works when everyone is playing by the same rules, and the Senate should support this measure to protect everyone in the marketplace.”

-Steve Bellone, Suffolk County Executive

“We need to spur economic development in our downtowns and provide the support to small local businesses on Long Island. We are counting on Albany to support the Internet fairness measure and level the playing field.”

-Laura Curran, Nassau County Executive

“Counties support the Governor's proposal that updates our current sales tax system to accommodate changes in the retail marketplace, while creating a fairer retail marketplace for our local retailers.”

-Stephen J. Acquario, Executive Director, New York State Association of Counties

[To learn more about this proposal and read NYSAC's policy position, click here.](#)



10954

MEMORANDUM

TO: Benjamin Boykin, Chair, Board of Legislators

FROM: Damon R. Maher, Legislator – 10th District

DATE: May 7, 2018

RE: **New Hampshire Gun Shop Project- Suicide Prevention: Role for Firearm Dealers and Ranges**

Please add the attached articles to the May 21st consent agenda for referral to the following committees: Legislation, Public Safety, and Social Services on behalf of Legislator Maher.



**Training Professionals & Communities in
Suicide Prevention & Response**



1.800.242.6264

[New Hampshire](#)

[In the Newsroom](#)

Search form

Search

Search

[Home](#)[About Connect](#)[Resources](#)[Understanding Suicide](#)[Training/Consultation](#)[Contact Us](#)**You are here**

[Home](#) » [Firearms Safety Coalition's Role in NH Suicide Prevention](#)

Firearms Safety Coalition's Role in NH Suicide Prevention

[About The Coalition](#)

Suicide Prevention: A Role for Firearm Dealers and Ranges



Mission

The project's overall goal is to share materials, developed by and for firearm retailers and range owners, on ways they can help prevent suicide. Its objectives are to:

- Develop and share guidelines with gun store/firing range owners about how to avoid selling or renting a firearm to a suicidal customer
- Encourage gun stores and firing ranges to display and distribute suicide prevention materials tailored to their customers

Latest Information

We've stopped by virtually all of the independent gun shops in the state (67 by our count) to see whether they were displaying materials we had sent them and to hear their advice.

Here's what we learned:

- About half (48%) of all gunshops in NH are displaying our suicide prevention materials—either the safety brochures, poster, hotline cards, or all three. That's a huge response!
- Lots of the shop owners had advice. Based on their suggestions, we changed the photo on the poster. Both the original and the new one are available below.
- Some gun shops got more involved. A couple of shop owners joined the Coalition; someone made a video based on the safety brochure; someone placed an editorial about the project in their newsletter, and long-time

Coalition member, Massad Ayoob, wrote an article called Avoiding Disasters that was published in *Combat Handguns*.

- And, we heard stories like these:
 - "A woman came into the shop asking about buying a gun because of some emotional problems. I told her she didn't need a gun, she needed spiritual help. So I took her to my pastor. She never did come back for a gun."
 - "There was a guy I wouldn't sell a gun to because he just didn't seem right. I later got a letter from his attorney thanking me for saving his client's life."

A summary of the Gun Shop Project is included in the List of Products.

Background

In 2009, in the course of less than a week, three people (with no connection to each other) bought a firearm from the same store and killed themselves within hours of the purchase. The Medical Examiner's office brought this to the attention of their mental health liaison, and a small group of firearm retailers and mental health/public health practitioners met to explore whether there is a role for gun stores in preventing suicide. The group was later adopted by the NH Firearm Safety Coalition.

According to information abstracted from the NH medical examiner's death investigation reports, among the 144 firearm suicides that occurred over a two-year period ending 6/30/09, nearly one in ten were committed with a gun that was purchased or rented within a week of the suicide (usually within hours). The figure is likely an underestimate since two-thirds of the reports made no mention of when the gun was obtained.

Materials

The Coalition originally developed materials and visited about half the gun shops in NH to get feedback from shop owners on the overall project and the draft materials. Response was very positive. Materials were adapted based on the input received. Packets were mailed out to independent, storefront gun shops in August 2011. Then all the shops were visited to see how many were displaying materials and to get additional feedback. Again, some materials were adapted.

Materials were developed to engage gun shops in helping to prevent suicide. Those for the gun shop owners and their employees are designed to help them identify and address a potentially suicidal customer. The products for customers urge them to be alert for signs of suicide among family and friends, to know where to call for help (1-800-273- TALK [8255]) and to make sure that guns aren't available to those in a suicidal crisis.

Products List

Use the links below to print or view copies of our materials. To order a DVD of the video, a copy of the poster, or the business cards, send us an [email](#) requesting the product by title.

- Most Popular - Brochure for customers/public: [Gun Safety Rules - The 11 Commandments](#)
 - An example of a [localized version](#) of this document

- Suicide Prevention [Poster](#) (revised) *Concerned About a Family Member*
- Suicide Prevention [Poster](#) (original) *Concerned About a Family Member*
- [Lifeline Card](#) (4 Sided)
- [Lifeline Card](#) (2 sided)
- [Tip Sheet](#) for Dealers
- [Tip Sheet](#) for Range Owners
- [FAQ Sheet](#)
- [Video](#) – Suicide Prevention: A Role for Gun Shops and Ranges (length: 5 minutes)

Next Steps

Several organizations are interested in adapting these materials for use in their state. We are actively working with several of them. If you are interested, please contact [Elaine Frank](#) to discuss next steps.

About The Coalition

The New Hampshire Firearm Safety Coalition brings together individuals and organizations with a broad range of views on gun ownership who share a concern with safety and with preventing suicide. The group includes: gun shops and firing ranges, legislators, injury prevention and mental health advocates, researchers and committed volunteers.

Since the Coalition first formed in 1994, the group has produced a variety of public education materials initially geared towards young people: a brochure and other printed materials, Firearm Safety Display Kits available for use at health fairs and educational programs, and two videos entitled "Staying Safe Around Guns - What You DON'T Know Can Hurt You" – one geared to middle school students and the other to high school students. Since then, more than 4500 copies of these have been distributed throughout NH, the US and abroad.

In 2009, the Coalition took on the Gun Shop Project – a collaborative effort to engage gun shop and firing range owners, their employees and their customers on preventing suicide, the number one type of firearm death in the U.S.

NH Firearms Safety Coalition In The News

- Journal of Suicide and Life-Threatening Behavior - [A Suicide Prevention Campaign for Firearm Dealers in New Hampshire](#)
- Journal of the American Medical Association - [Reducing Suicides Through Partnerships Between Health Professionals and Gun Owner Groups—Beyond Docs vs Glocks](#)
- Scientific American - [A Plan to Prevent Gun Suicides](#)
- SPARK Talks - [Common Ground: Reducing Gun Access](#)

NH Gun Shop Project on CNN

Video could not be initialized

- 9News Denver, CO - [Gun shops work with anti-suicide program](#)
- Backwoods Home Magazine - [Guns, suicide prevention, and backwoods lifestyle](#)
- US News - [Gun Shops, Public Health Officials Find Common Ground](#)
- Boston Globe - [NH responds to rising suicide rate](#)
- CA Office of Suicide Prevention: eNews - [Means Matter](#)
- Billings Gazette - [Means Matter: Gun lethality affects suicide rate](#)
- NH Public Radio - [Rising suicide rates in the granite state](#)
- Tactical-Life.com - [Avoiding Disasters](#)

Questions?

Please direct questions about the NH Firearm Safety Coalition to the Co-Chairs:

Elaine Frank ~ [Email](#) or 603.308.2253

Ralph Demicco ~ [Email](#) or 603.296.5372

Connect is a nationally recognized program developed by [NAMI New Hampshire](#)
Connect

85 North State Street, Concord, NH 03301

603.225.5359 or 1.800.242.6264

[Terms of Use](#)

[Privacy Policy](#)

[Site Map](#)

[Contact Us](#)

© Copyright 2018 NAMI NH. All Rights Reserved.



New Hampshire Firearm Retailers:

Your vigilance could save a life!

Close to one in ten firearm suicides in New Hampshire occur with guns purchased within that same week, usually within *hours*. While not all suicides are preventable, you could reduce the odds that a gun bought at your store today is used in a suicide tomorrow.

Signs that a potential buyer could be suicidal

Note: None of these signs clearly indicate someone is suicidal, but if any are present (especially if more than one is present), use extra caution in deciding whether to proceed with the sale.

- No knowledge about guns AND no interest in learning; asks no questions
- Doesn't care which gun s/he purchases or seem responsive to your questions about the purchase
- Gives unconvincing response when asked what s/he intends to use the gun for
- No interest in firearm maintenance or safety
- Mentions recent crisis, such as a divorce, job loss, or other setback
- Makes comments that could suggest suicidality (e.g. "I don't need a lot of ammunition, I won't have the gun for long.")
- Looks anxious, avoids eye contact
- Appears distraught (shaking, fighting back tears)

Options for responding to a potentially suicidal buyer

- Notify store owner or manager (if applicable) if at all uncomfortable with a prospective sale
- Urge customer with little firearm experience to seek training before buying
- Ask the customer why s/he wants a firearm and how and where s/he plans to use it
- Suggest the customer take some more time to think it over before buying
- If s/he claims to be buying for self-defense, offer to sell pepper spray instead
- Ask person directly if s/he is suicidal; if yes, offer National Suicide Prevention Lifeline number (1-800-273-TALK [8255])
- Notify nearby dealers that someone you denied a sale to may go to their store; notify police
- Trust your instincts; you are under no obligation to sell a gun to anyone

"What else can I do?"

- Display a suicide prevention hotline poster in your store
- Distribute firearm safety brochures to buyers that include information about recognizing suicide warning signs and keeping firearms away from suicidal or depressed family members
- For more information on suicide prevention in NH visit www.theconnectproject.org
- Spread the word! Ask other dealers you know to visit our website to request our materials

PROGRESS IN SAFETY

Unintentional gun deaths have dropped by over 50% in New Hampshire over the last three decades!

NEW HAMPSHIRE FIREARM ACCIDENTS

	Deaths	Injuries treated in the Emergency Department
1983-1987	17	NA
2003-2007	7	193

Still, with one or two deaths a year—and about 40 injuries treated in New Hampshire emergency departments every year from firearm accidents—we can do better.

The first step is to follow the 11 commandments of gun safety. The newest rule addresses suicide prevention. Suicides for our number homicides in New Hampshire (annually about 150-200 suicides vs. 20 homicides). Firearms are the leading suicide method in our state (about half of all suicides).

If a family member is going through a difficult period (like depression, a relationship break-up, or drug problem), make sure they can't get to your guns. To learn ways to get help for them, call the **National Suicide Prevention Lifeline: 1-800-273-TALK [8255]**.

ABOUT THE COALITION



The New Hampshire Firearm Safety Coalition brings together a broad range of individuals and organizations who share a concern with firearm safety.

The group includes: gun shops and firing ranges, legislators, injury prevention and mental health advocates, researchers and committed volunteers.

Since the Coalition first formed in 1994, the group has produced a variety of public education materials initially geared towards young people: a brochure and other printed materials, Firearm Safety Display Kits available for use at health fairs and educational programs, and two videos entitled "Staying Safe Around Guns – What You DON'T Know Can Hurt You" for middle and high school students. Since then, more than 4500 copies of these have been distributed throughout NH, the US and abroad.

In 2009, the Coalition took on *Suicide Prevention: A Role for Gun Shops and Ranges* – a collaborative effort to engage gun shop and range owners, their employees and their customers on preventing suicide, the number one type of firearm death in the U.S.

For more information visit our website
www.nhfsc.org



GUN SAFETY RULES

11 10 COMMANDMENTS OF GUN SAFETY

look inside to see what's new!

SHOOTING A GUN

1. **Seek proper instruction.** Attend a reputable firearms safety handling course or seek private instruction before attempting to use a firearm. Before handling a new gun, learn how it operates. This includes knowing its basic parts, how to safely open and close the action, and how to safely remove any ammunition if loaded. Remember, a firearm's mechanical safety device is never foolproof. The safety device can never replace safe firearm handling.
2. **Wear eye and ear protection as appropriate.** Firearms are loud. They can also emit debris and hot gases that can cause injury. For these reasons, safety glasses and ear protectors are recommended.
3. **Be sure your gun and ammunition are compatible.** Only cartridges or shells designed for a particular gun can be safely fired by that gun. Most guns have their cartridge or shell type stamped on the barrel. Ammunition can be identified by information printed on the box and stamped on each cartridge. Do not fire the gun if there is any question about the compatibility of the gun and ammunition.
4. **Carry only one gauge/caliber of ammunition when shooting.** Smaller ammunition can be accidentally placed in a gun chamber

designed for larger ammunition, creating an obstruction and a very hazardous situation. Remove unfired ammunition from clothing when you are through shooting to avoid accidentally mixing different ammunition next time you go shooting.

5. **Be sure of your target—and what's beyond.** Be absolutely sure you have identified your target without any doubt. Equally important, be aware of the area beyond your target. This means observing your prospective area of fire before you shoot. Never fire in a direction where there are people or any other potential for mishap. It's simple: *think first, shoot second.*

6. **Don't mix alcohol or drugs with shooting.** Alcohol, as well as any other substance likely to impair mental or physical functions of the body, should not be used before or while handling firearms.

OWNING & HANDLING A GUN

7. **Keep your finger off the trigger until you are ready to shoot.** There's a natural tendency to place your finger on the trigger when holding a gun. Avoid it! Your trigger finger should be extended, pointing forward, pressed against the side of the firearm, above the trigger area.

8. **Keep the action open and the gun unloaded until ready to use.** Whenever you pick up any gun, immediately check the action and check to

see that the chamber is unloaded. If the gun has a magazine, make sure it is empty. Even if the magazine is empty or removed, a cartridge may still remain in the firing chamber. If you do not know how to open the gun's action, leave it alone or get help from someone who is knowledgeable.

9. **Always point the muzzle in a safe direction.** Whether you are shooting or simply handling your gun, never point the muzzle at yourself or at others. Common sense should dictate which direction is safest depending on your location and various other conditions. Generally speaking, it is safest to have the gun pointed upward or towards the ground.

10. **Store your guns safely and securely when not in use.** Hiding guns where you think children or others will not find them is not enough. Always store your guns unloaded and locked in a case or gun safe when not in use, with ammunition locked and stored in a separate location.

11. **Consider temporary off-site storage if a family member may be suicidal.** When an emotional crisis (like a break-up, job loss, legal trouble) or a major change in someone's behavior (like depression, violence, heavy drinking) causes concern, storing guns outside the home for a while may save a life. Friends as well as some shooting clubs, police departments, or gun shops may be able to store them for you until the situation improves.

BREAKING Yellowstone County recorder's office 'dodges a bullet' following weekend flood...

http://billingsgazette.com/news/state-and-regional/wyoming/means-matter-gun-lethality-affects-suicide-rates/article_625e979a-d779-5333-aac0-0fade249a997.html

'Means Matter': Gun lethality affects suicide rates

By TOM MORTON

Casper Star-Tribune Sep 20, 2011

SUBSCRIBE FOR 17¢ / DAY

CASPER, Wyo. — A teen who killed himself in Casper in early 2009 left behind grieving families and friends.

His survivors asked “Why would he do this?”

The owner of Rocky Mountain Discount Sports knew the question of how was just as important.

Shawn Wagner's store, with the assistance of some of its suppliers, gave away more than 900 gun locks at the Natrona County Suicide Prevention Task Force booth at the Blue Envelope Health Fair.

"I heard lots of positive things," Wagner said recently. "People still ask for them."

As one who has intervened to stop three suicides, as well as a retailer of hundreds of guns, Wagner knows the link between a personal life-threatening crisis and the inherent lethality of firearms.

He's instructed store staff members to watch out for despondent gun customers, he said. "My guys know not to sell them to (depressed) people."

Wagner offers the same advice for gun owners in general, and for those who may themselves may be depressed or enduring a crisis, he said. "The best suggestion is to lock up your guns, lock up your ammo, and lock them up separately."

The time it takes to unlock two safes may give that person the time to reconsider.

"If you have a gun on your table, it's a lot easier to pick it up and point it at

your temple,” Wagner said.

How and why

Wagner’s observations, intuition and action on a local level echo the national findings of the Harvard Injury Control Research Center at the Harvard School of Public Health in Boston.

The means used affect whether a suicide attempt results in hospitalization or death, said Catherine Barber, the study’s author.

“Traditionally, suicide prevention has focused on who takes their life, when, where, and especially why,” Barber said in her report of the campaign “Means Matter: Suicide, Guns & Public Health.”

“Why” includes substance abuse, depression, impulsiveness and aggressiveness, family history, previous attempts and hopelessness, she said.

However, the moment a suicidal person acts often occurs during a brief period of heightened vulnerability, Barber said.

Whether that action turns fatal depends on the availability of highly lethal methods, she said.

“In the U.S., that means guns,” Barber said. “We are beginning to understand that how people attempt suicide plays a crucial role in whether they live or die.”

First, the time element.

According to the center, 24 percent of those who nearly died in a suicide attempt said less than 5 minutes elapsed between the decision and the act, and another 47 percent said less than an hour. One third of youths who died by suicide had faced a crisis within the past 24 hours.

Second, the means.

People who attempt suicide are often ambivalent, and some act impulsively during a short-term crisis, Barber said. "If a highly lethal method is unavailable and an attempter substitutes a less lethal method, the odds are increased that the attempt will be nonfatal."

Nationwide, more than 31,000 people killed themselves each year on average from 2001 to 2007, or a rate of nearly 12 per 100,000 population, according to the U.S. Centers for Disease Control and Prevention. In Wyoming, during that same period, an average of 98 residents — roughly 19 per 100,000 — committed suicide each year, according to figures from the state Health Department.

Of the suicide attempts, 64 percent involved poisoning, followed by cutting at 19 percent, other means at 16 percent, and jumping and firearms at 2 percent each, according to Barber and data from the CDC.

But the lethality was another matter.

Nationally, firearms accounted for slightly more than half — 6.3 per 100,000 — of the total completed suicides, according to the Suicide Prevention Resource Center.

Suffocation, usually hanging, was the second leading method at 2.4 per 100,000, followed by poisoning at 2.0 per 100,000.

In Wyoming, firearms accounted for two-thirds — 13.3 per 100,000 — of the total completed suicides, followed by suffocation at 3.2 per 100,000 and poisoning at 3.0 per 100,000.

The difference between national and Wyoming rates correlates with household

gun ownership, Barber said.

In 2004, the Behavioral Risk Factor Surveillance System surveyed nearly 241,000 adults and asked them if they owned firearms. Nationally, about 36 percent of households had firearms, compared to about 65 percent of Wyoming households.

Firearms are inherently lethal, with an 85 percent fatality rate in suicide attempts that exceeds all other methods, Barber said.

Pulling a trigger is faster than making a noose or overdosing. Hanging and poisoning also give an opportunity for a person to back out of the decision, she said.

Gun owners are no more likely than non-owners to have mental illness or to kill themselves, Barber said. "Gun owners aren't more suicidal. They're just more likely to die if they become suicidal."

Dealing with it

Barber acknowledges those who don't have a gun may try something else. "But they are much more likely to survive an attempt by another method."

She also acknowledges reducing access to lethal means may not prevent a suicide, she said. “We don’t have a ‘one-size-fits-all’ solution for suicide prevention.”

Counselors at the Central Wyoming Counseling Center recognize that when they receive calls from people who say they are suicidal, said outgoing director Mike Huston.

They conduct “lethality assessments” to inquire about personal issues including guns, Huston said. “The availability of firearms is a big deal.”

Wagner, of Rocky Mountain Discount Sports, recognized that with his local gun lock distribution.

And the Harvard Injury Control Research Center helped take that recognition to a statewide level after being contacted by the New Hampshire Firearms Safety Coalition, said Mary Vrinotis, project manager of Means Matter.

The coalition asked Vrinotis to interview gun dealers and shooting range owners about what they could do to reduce suicide by firearms, she said. She was able to interview about half the dealers in New Hampshire, and many of them — including the state’s largest retailer and a range owner — agreed to participate.

On Sept. 12, the coalition announced its pilot project, which includes a poster for stores and ranges with advice such as having a friend hold the guns of someone who is suicidal, Vrinotis said. They also made brochures about keeping guns safe.

Dealers will call police if they have a potentially suicidal customer, refuse to sell to a depressed customer, and alert other dealers about that customer, she said. “This is a way they can make a positive impact.”

Vriniotis, Barber and Huston emphatically asserted their research, findings and actions are not about gun control or Second Amendment rights.

“The goal isn’t to be anti-firearms, but to make them inaccessible,” Huston said.

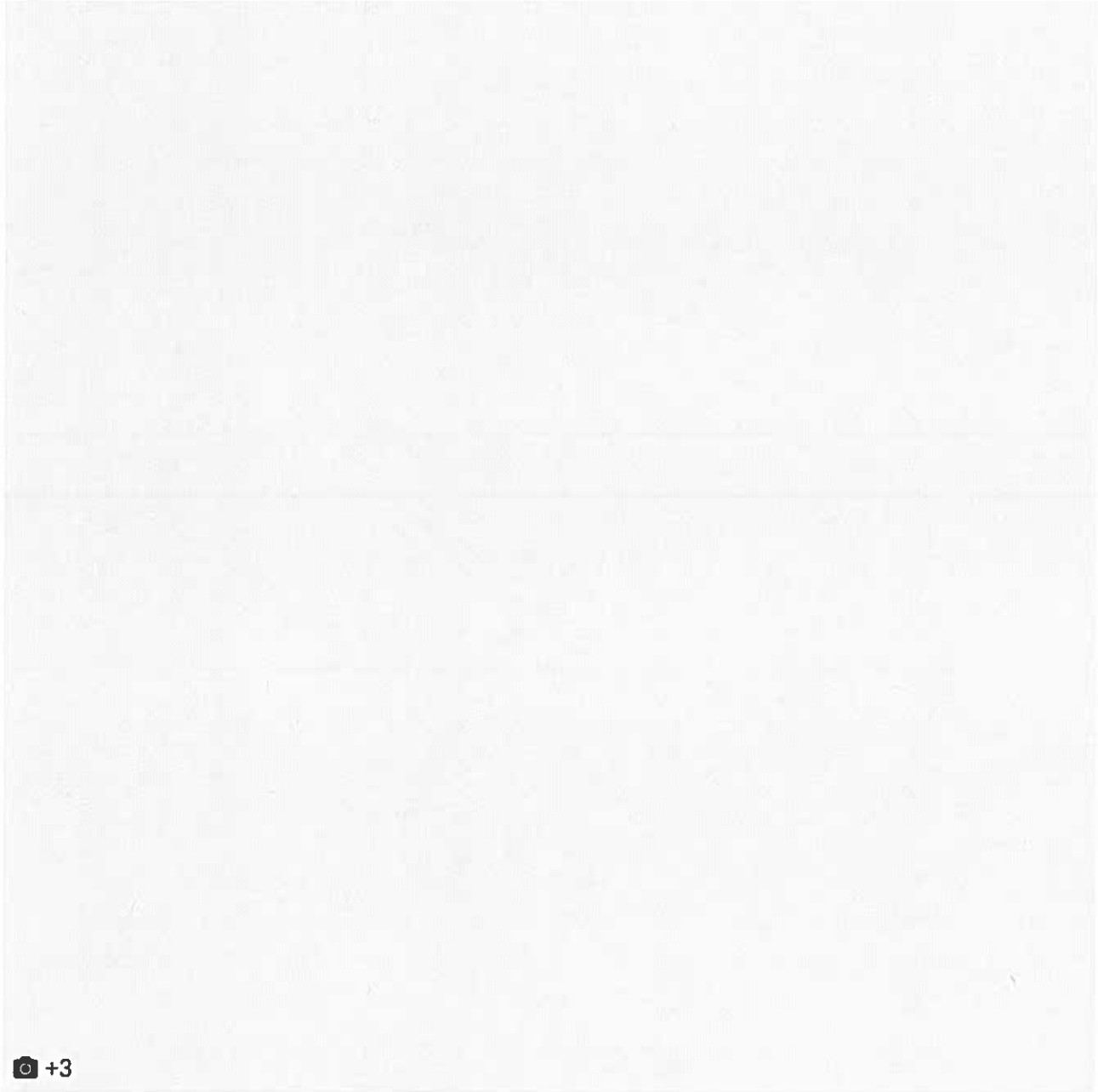
“There may be some people who are hard to convince about innovative ways of firearms safety,” Vriniotis added.

But suicide profoundly affects families, friends and communities, and firearms should not be exempt from scrutiny, she said. “A lot of people in the gun world know someone who committed suicide with a gun.”

Barber likened Means Matter to the “friends don’t let friends drive drunk” campaigns.

Recognizing the research and taking action will not happen by a government-driven program, Barber said. “It totally depends on the gun owners.”

MORE INFORMATION



+3

Wyoming family follows long path to healing from suicide

- Altitude may be major factor in suicide

Gun Shops, Public Health Officials Find Common Ground

A string of suicides prompted gun store owners in New Hampshire to adopt a voluntary self-regulation program.

By Susan Brink, Contributor

Dec. 4, 2014, at 12:01 a.m.

By Susan Brink, Contributor Dec. 4, 2014, at 12:01 a.m.

Gun Shops Work to Prevent Suicides

More



A small but significant percentage of gun suicides occur within hours of a gun purchase, according to a study by the New Hampshire Firearm Safety Coalition. Gabriel Bouys/AFP/Getty Images

In April 2009, a young man just a day shy of his 25th birthday bought a gun at Riley's Sport Shop in Hooksett, New Hampshire, just northeast of Manchester. Within hours, Gregory Castillo

died by his own hand. He was one of three people that week who bought a gun at Riley's and soon after turned it on themselves.

When Ralph Demicco found out about the string of suicides, he was horrified. "I heard that and thought, 'Oh my God,'" says Demicco, then-owner of Riley's, the largest gun store in the state. With his sales staff, he went over the records of the three purchases, asking if there were any telltale signs of the customers' deadly intent. "My clerks remembered the transactions somewhat, but said there was nothing strange," he says.

Out of these tragedies was born, as a project of the New Hampshire Firearm Safety Coalition, an unlikely partnership of firearms owners, gun advocates and public health professionals. Their common ground was a desire to prevent gun suicides. "What was great about this committee was that the suicide prevention people were largely not gun owners. The gun owners on that committee didn't have a background on mental health or suicide issues," says Catherine Barber of the Harvard School of Public Health's Injury Control Research Center and an author of a study on the committee's work. "We learned so much from each other."

[

READ:

Gun Control Battle Has Moved Beyond Politicians]

A civil conversation about gun safety began, resulting in a voluntary self-regulation program. The result of its efforts, recently published in the journal "Suicide and Life-Threatening Behavior," shows that 48 percent of gun dealers in New Hampshire now display suicide prevention materials in their shops.

People with guns are not more likely to be suicidal. But a suicidal person who uses a gun is far more likely to die in a suicide attempt. Suicide is the 10th leading cause of death in the United States, and guns account for more suicide deaths—51 percent—than all other methods combined, according to the Centers for Disease Control and Prevention. When people try to end their lives with pills or knives, for example, the attempt ends in death in about 2 percent of cases. When people make the attempt with a gun, the result is death in 83 percent to 90 percent of cases. Gun suicides outnumber gun homicides: In 2010, there were 19,392 suicides by firearm compared to 11,078 gun homicides, according to the CDC.

PEOPLE WITH GUNS ARE NOT MORE LIKELY TO BE
SUICIDAL. BUT A SUICIDAL PERSON WHO USES A GUN IS
FAR MORE LIKELY TO DIE IN A SUICIDE ATTEMPT.

USN&WR

Often, suicide victims are as impulsive as they are desperate. A small but significant percentage—8 percent—of gun suicides happen in less than a week, and often within hours, of purchasing guns, according to the recent study. In another study, 153 survivors of a nearly lethal suicide attempt were asked how much time had passed between their decision to commit suicide and their suicide attempt. Nine out of 10 deliberated for less than a day; one out of four deliberated for less than five minutes.

To help stop fatal, impulsive decisions, the coalition members talked about how to prevent sales to potentially suicidal customers. “We contacted NAMI (the National Alliance on Mental Illness, a mental health education, advocacy and support organization) and asked if there were warning signs that a customer might be suicidal. We looked at surveillance tapes of the three recent gun purchases that ended in suicide. We talked,” says Barber. The coalition’s gun advocates and gun control advocates were on the same side. “What struck me,” says Elaine Frank, co-chair with Demicco of the coalition and an author of the study, “was that the stuff that gun people were saying and the stuff that gun control people were saying about safe storage was the same.”

They came up with a tip sheet for retailers to help reduce the odds that a gun purchased in their store would soon be used in a suicide. Does the customer display no knowledge of guns, and no interest in learning? Is the customer vague when asked what the gun will be used for? Do they mention a crisis, like a divorce or a job loss? Do they appear distraught?

inRead[

ALSO:

Should Facebook and Instagram Remove Gun Sale Posts?]

Gun store owners and managers are not mental health experts and can’t be expected to diagnose depression. But they’re adults with life experience, says John Yule, manager of Wildlife Taxidermy and Sports Center in Manchester, New Hampshire, and a member of the coalition. Most adults have seen what depression looks like. “I know people with depression. Some people come in the store generally disinterested in any of the uses of a gun. They have no sporting interest,” he says. “If we say, ‘What are you buying it for?’ and they say they just want a gun; or if we say, ‘Let me show you some cleaning accessories,’ and they say they won’t be needing to clean it, we’re not going to sell them a gun.”

Guns in America



[View All 30 Images](#)

Demicco has put the brakes on sales when he suspected the buyer might be suicidal. “I remember one well-dressed woman who came in, and it was clear she knew nothing about guns,” says Demicco. “She just randomly pointed and said, ‘Let me see that one.’ I asked her if she was sure she wanted to buy a gun, and she started crying.” He didn’t sell her a gun. He took her in a back room and talked to her. She had just been released from a state institution, and was talking about ending her life. Demicco called her psychiatrist. “I really feel that at least that time, I possibly saved her life. That’s what we gun dealers can do,” he says.

Both Demicco and Yule emphasize that gun shops are under no obligation to sell a gun to anyone. And stopping sales of guns to suicidal customers is an important, but relatively small, part of the guns-and-suicide problem. Of the people who use a gun to kill themselves, most of them -- 92 percent -- already have access to a gun.

That’s where friends and family come in, and the coalition also distributes suicide-prevention materials aimed at distribution to customers in gun stores. The posters challenge customers to think about people they know who might have talked about being better off dead or who seem otherwise depressed. If somebody is at risk of suicide—going through a horrible divorce, struggling with depression, experiencing a financial setback—friends can offer to temporarily hold onto their guns, the posters and handouts advise. Or the person’s family can lock up the guns and put the key in a safe deposit box until the crisis passes. “It’s not failsafe, but it’s the low hanging fruit to make things a little safer,” says Barber.

[

READ:

Gun Restriction Support Shrinks 2 Years Post-Sandy Hook]

The cooperation between gun store owners and public health suicide experts represents only a tiny dent in the broad national debate about firearms. When Mary Vrinotis, a researcher for the study, began approaching gun store owners in New Hampshire to survey their feelings about displaying the coalition's anti-suicide messages, she made a conscious effort to appear neutral on gun control. "I was definitely concerned about not coming off as anti-gun," she says. It was important to have the conversation without anyone's biases getting in the way. "And after all," she says, "not many people are pro-suicide."

They seem to have pulled it off. The effort to include suicide prevention messages in gun literature is spreading, with efforts under way in Tennessee, Nevada, and Shasta County, California. "There's a guy in Wyoming who, totally on his own, started giving out free gun locks from his shop," says Barber. "That was in response to a high-profile suicide in the state." Most gun owners know about what is called the 10 Commandments of gun safety, including getting proper instruction and being sure of the target. The coalition has added an 11th commandment: Consider temporary off-site storage if a family member may be suicidal.



Gun locks, which can help prevent a gun from firing, are a significant step toward preventing impulsive, unsafe use. Andrew Poertner//Roswell Daily Record/AP

No one is particularly optimistic that a similar collaborative effort would reach common ground on other gun issues, such as background checks or bans on certain types of firearms. Still, the suicide prevention project is the most successful coalition between the two groups that anyone involved can remember. "I trust Elaine," Demicco said, referring to coalition co-chair Elaine Frank. "I thought, if I don't get involved, who will. My input will help steer this thing in a neutral direction."

And with Demicco's participation, other gun shop owners grew less suspicious. "When I saw Ralph Demicco's involvement, I knew it wasn't a liberal cover group to disarm everybody," says Yule. "It's been very refreshing in this world of left and right to find common ground."

The study could only measure the number of gun stores willing to display information about gun suicide in their shops; it doesn't gauge how many suicides the effort may have stopped. And that may be something no one will ever know. Even the most empathic and compassionate gun dealer can't always predict who might be buying a gun for suicide. After the three suicides by recent gun buyers who bought their guns at Riley's, Demicco studied the store's security video of each of the buyers. He remembers one in particular, a man who showed none of the signs of an impulsive gun purchase. "One of the suicide victims spent 53 minutes talking to clerks, going from one gun to another. There was no indication that he'd take his life," Demicco says. "But an hour and a half later, he was dead."

Susan Brink, Contributor

Tags: gun control and gun rights, suicide, New Hampshire, research

Recommended

Best Countries

What Does Putin Do Now?

STEM Solutions

Students Get Astronaut Training in Houston

National News

Boy Regains Consciousness After Parents Decide to Donate Organs

We use cookies to provide you with a better onsite experience. By continuing to browse the site you are agreeing to our use of cookies in accordance with our [Cookie Policy](#).

[SUBSCRIBE](#)[SHARE](#)[LATEST](#)

POLICY & ETHICS

A Plan to Prevent Gun Suicides

Firearm sellers have become unlikely allies of public health authorities in the effort to block people from killing themselves

By Nancy Shute on June 1, 2016





Credit: Kyle Smart

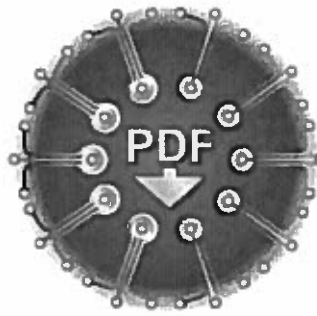
ADVERTISEMENT

Ralph Demicco feels as if he has watched the 53-minute surveillance video 100 times, searching it for clues to preventing tragedy. He sees a young man walk into his gun shop in Hooksett, N.H. The man asks about buying a handgun. “He engaged the clerk in small talk, totally disarmed the clerk,” Demicco says. “No way in heck that clerk would suspect that three quarters of an hour after the conversation that person would take his life.”

And yet the 24-year-old man did kill himself, pulling the trigger soon after leaving the boxy beige building. Nor was he the only customer who did so. In one awful week in 2009, he and two other people came into the shop, which Demicco no longer owns, bought guns and used the purchases shortly thereafter to kill themselves.

The experience shook Demicco and prompted him to help found a movement that links members of the firearm community with public health experts to prevent suicides by raising awareness about gun safety, among other things. Its leaders are realists who accept that very strict, European-style gun control is not politically feasible in the U.S. and would, in any case, be a nonstarter for most gun sellers, who oppose such control. But they also know that households that keep guns and ammunition in separate, locked locations and store their guns unloaded have much lower risks of accidental or intentional deaths from firearms. In addition, as a further safety measure, the group seeks to make it socially acceptable for relatives and friends to offer to hold on to a potentially suicidal gun owner's weapons until the crisis has passed.

Ad



Start Download - PDF To Word

Convert From Doc to PDF, PDF to Doc. 100% Free, Download PDF Pro 100!



pdfpro100.com

VISIT SITE

ADVERTISEMENT

The public safety campaign is admittedly modest so far, consisting mainly of distributing posters and brochures about suicide to gun shops. Still, its start in a state whose motto is “Live Free or Die” shows that the long-standing political stalemate over gun-control laws need not prevent progress from being made.

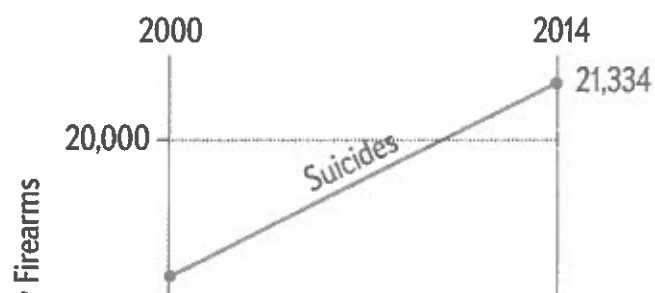
EVIDENCE-BASED APPROACH

The gun safety coalition is motivated by data as well as by the distressing stories of gun shop owners. In the case of guns, the impulsive nature of many suicides, combined with the lethal efficiency of firearms, creates an exceptionally deadly pattern.

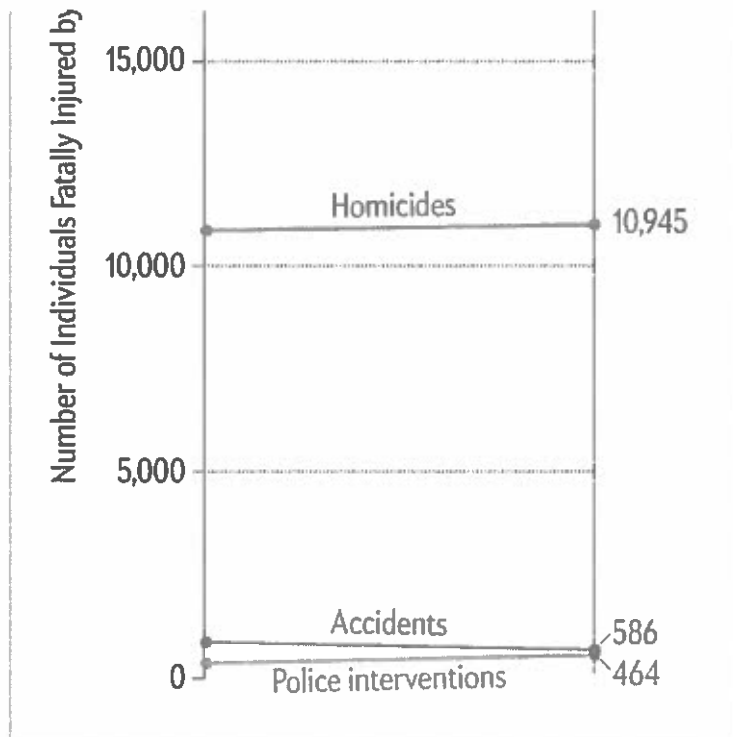
Several studies now confirm that suicide is often a decision made suddenly. If the moment somehow passes safely, the evidence suggests, lives can be saved in the short and long term.

“There's a fair amount of research showing that the

Suicide Caused the Most Gun-Related Deaths in the U.S. from 2000 to 2014



suicide crisis is time-limited,” says John Mann, a professor of translational neuroscience at Columbia University who studies suicide. Two thirds of those who survived a suicide attempt, according to one 1991 study, had started planning their course of action less than an hour beforehand. Another study notes that almost half of the 82 people who attempted suicide said they had started thinking about their current attempt less than 10 minutes earlier. Moreover, in the case of guns especially, an investigation by the New Hampshire medical examiner's office showed that nearly one in 10 suicides by firearm from 2007 to 2009 involved a weapon that was purchased or rented the preceding week—often within just a few hours.



Credit: Amanda Montañez; Source: Centers for Disease Control and Prevention

National data speak to the other half of this deadly combination. Although guns are not the most popular way that people try to take their life (this dubious distinction belongs to pills), they are the most deadly. Statistics show that 85 percent of attempts with a gun are fatal, compared with 69 percent for hanging and 2 percent for self-poisoning. Mass shootings and murders dominate the news, but 21,334—or nearly two thirds—of the 33,599 gun deaths that occurred in the U.S. in 2014 were suicides. Another 10,945 were homicides.

1 Background Check Yourself

Enter a Name & Search for Free!
View Background Check Instantly.

CheckPeople Background



2 2018 Best Medicare Plans

See Best Medicare Supplement
Plans & Free Instant Quotes.
Compare Plans & Save Up To
38%!

www.Medigap.com



ADVERTISEMENT

Guns, then, take what is often an ambivalent decision and turn it into an irrevocable one.

Won't people who are stopped from killing themselves today just find another way to complete the act later? Some number will, unfortunately. Yet most who survive do not keep trying until they succeed. Instead, studies show, the majority of survivors die a natural death many years after failing to kill themselves. The period of greatest vulnerability seems to be in the first year after an attempt, a time when treatment for those who try to end their life is critically important, experts say.

Perhaps the best evidence for the strength of this survival instinct stems from pioneering research carried out by Richard Seiden in the 1970s. Then a clinical psychologist at the University of California, Berkeley, Seiden found that more than 90 percent of the 515 people who were prevented from jumping off the Golden Gate Bridge between the year it opened in 1937 and 1971 eventually lived long enough to die of nonviolent causes. Indeed, Seiden's work spurred such a surge of scientific inquiry by other investigators who reached the same conclusion that state authorities finally agreed to install antisuicide netting underneath the famous span. Construction on the barrier has begun and is scheduled to finish sometime in 2021.

LIFESAVING RESTRICTIONS

Figuring out ways to limit access to particularly lethal methods of committing suicide—whether they are bridges or guns—makes sense from a public health point of view. Yet it also made sense to Demicco and a few other gun shop owners in New Hampshire, who agreed to collaborate with mental health practitioners and researchers after that devastating rash of suicides in 2009. When a public health researcher expressed surprise at the positive response from the firearm community, “a firearm instructor said, ‘I could be insulted by that,’” says Elaine Frank, who directs the Counseling on Access to Lethal Means project at Children’s Hospital at Dartmouth-Hitchcock and is co-chair of the New Hampshire Firearm Safety Coalition. “Why do you think the firearm community would be less interested in preventing suicide than you would be?” In 2011 the group sent posters and brochures to New Hampshire’s 65 retail gun shops. The goal was to encourage customers to become alert to signs of crisis in friends or household members and to make firearms inaccessible until the crisis had passed.

“Concerned about a family member or friend?” one poster asks. “Suicides in NH far outnumber homicides.” In the photograph, one gray-haired man rests his hand on the shoulder of another. A handgun lies on the kitchen table between them. “Hold on to their guns,” the poster continues. “Putting time and distance between a suicidal person and a gun may save a life.”



9 Ways To Make A Very Good Living As A Writer

Learn Step-by-Step How To Write And Earn A Nice Check, No Experience Needed. Start Now



The Barefoot Writer

LEARN MORE

ADVERTISEMENT

The leaders of the New Hampshire effort did not expect their social-marketing campaign to have a significant effect on the number of suicides right away—and it did not. But 48 percent of the gun shops throughout the state still had the handouts and other materials available for customers after the first year, according to a study published in 2015 in the journal *Suicide and Life-Threatening Behavior*. “That’s actually a pretty incredible uptake, especially for a topic like suicide,” says Catherine Barber of the Harvard Injury Control Research Center, who is a co-author of the study, along with her colleague Mary Vrinotis, Frank, Demicco and the rest of the New Hampshire Firearm Safety Coalition. “Glancing at one poster isn’t going to do the trick,” Barber says. “That’s like one time seeing a poster about designated drivers. But hopefully it’s lighting a match.”

Since the New Hampshire project’s inception, the model has been adopted or adapted in more than a dozen states, each of which must tailor the concept to its political and legal realities. In Massachusetts, for example, only someone licensed to possess firearms could legally take a weapon for safekeeping, but attaching a trigger lock and giving the key to a trusted friend or relative would accomplish the same purpose.

Utah, which at 21 deaths per 100,000 people has one of the highest rates of suicide in the U.S., is training staff at hospitals and doctors' offices to screen patients for suicide risk and to intervene appropriately. Clark Aposhian, head of the influential Utah Shooting Sports Council, says his group is developing public service announcements aimed at encouraging friends and family of struggling loved ones to get some distance from firearms. "Go over to their house, kind of like a mini intervention at the door," Aposhian suggests. "Put your arm around them and say, 'Let me babysit your guns for a while.'"

It is still too early to know what impact these efforts have had in Utah or elsewhere. But research indicates that Aposhian, Demicco and fellow gun enthusiasts are taking the right steps. Perhaps, as is true of the movement that formed around the slogan "Friends don't let friends drive drunk," championing the safeguarding of guns as a way to reduce suicides will pick up steam in the years ahead.

This article was originally published with the title "A Plan to Prevent Gun Suicides"

ABOUT THE AUTHOR(S)



Nancy Shute

Nancy Shute is a science journalist at NPR.

Credit: Nick Higgins

Recent Articles

Tomorrow's Medicine

Beyond Mammograms: Research Aims to Improve Breast Cancer Screening

Desperation Drives Parents to Dubious Autism Treatments

MaryJane Shimsky**Legislator, 12th District****Majority Whip****Chair, Committee on Public Works***Voice of the People of Westchester County for over 300 years***Committee Assignments:**

Appointments

Environment, Health & Energy

Law & Major Contracts

Legislation

Parks, Planning & Economic Development

Public Safety

Seniors & Constituencies

Social Services

MEMORANDUM

TO: Benjamin Boykin, Chair, Board of Legislators
FROM: MaryJane Shimsky, Legislator – 12th District
DATE: June 18th, 2018
RE: San Francisco Ordinance #140-17: “Banning the Sale of Flavored Tobacco Products”

Please add the attached *document* to the EH&E and LEG committees.

[Health Code - Banning the Sale of Flavored Tobacco Products]

Ordinance amending the Health Code to prohibit tobacco retailers from selling flavored tobacco products, including menthol cigarettes.

NOTE: Unchanged Code text and uncodified text are in plain Arial font.
 Additions to Codes are in single-underline italics Times New Roman font.
 Deletions to Codes are in ~~strikethrough italics Times New Roman font~~.
 Board amendment additions are in double-underlined Arial font.
 Board amendment deletions are in ~~strikethrough Arial font~~.
 Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The Health Code is hereby amended by adding Article 19Q, entitled "Prohibiting the Sale of Flavored Tobacco Products," consisting of Sections 19Q.1 through 19Q.8, to read as follows:

ARTICLE 19Q: PROHIBITING THE SALE OF FLAVORED TOBACCO PRODUCTS

SEC. 19Q.1. FINDINGS.

(a) Tobacco use remains the leading cause of preventable death in the United States, killing more than 480,000 people each year. It causes or contributes to many forms of cancer, as well as heart disease and respiratory diseases, among other health disorders. Tobacco use remains a public health crisis of the first order, in terms of the human suffering and loss of life it causes, the financial costs it imposes on society, and the burdens it places on our health care system. The financial cost of tobacco use in San Francisco alone amounts to \$380 million per year in direct health care expenses and lost productivity.

(b) Flavored tobacco products are commonly sold by California tobacco retailers. For example: 97.4% of stores that sell cigarettes sell menthol cigarettes; 94.5% of stores that sell little cigars sell them in flavored varieties; 84.2% of stores that sell electronic smoking devices sell flavored varieties; and 83.8% of stores that sell chew or snus sell flavored varieties. 70% of tobacco retailers within 1,000 feet of San Francisco schools sell flavored tobacco products other than menthol cigarettes, and nearly all sell menthol cigarettes.

(c) Each day, about 2,500 children in the United States try their first cigarette; and another 400 children under 18 years of age become new regular, daily smokers. 81% of youth who have ever used a tobacco product report that the first tobacco product they used was flavored. Flavored tobacco products promote youth initiation of tobacco use and help young occasional smokers to become daily smokers by reducing or masking the natural harshness and taste of tobacco smoke and thereby increasing the appeal of tobacco products. As tobacco companies well know, menthol, in particular, cools and numbs the throat to reduce throat irritation and make the smoke feel smoother, making menthol cigarettes an appealing option for youth who are initiating tobacco use. Tobacco companies have used flavorings such as mint and wintergreen in smokeless tobacco products as part of a "graduation strategy" to encourage new users to start with tobacco products with lower levels of nicotine and progress to products with higher levels of nicotine. It is therefore unsurprising that young people are much more likely to use menthol-, candy- and fruit-flavored tobacco products, including not just cigarettes but also cigars, cigarillos, and hookah tobacco, than adults. Data from the National Youth Tobacco Survey indicate that more than two-fifths of U.S. middle school and high school smokers report using flavored little cigars or flavored cigarettes. Further, the Centers for Disease Control and Prevention has reported a more than 800% increase in electronic cigarette use among middle school and high school students between 2011 and 2015. Nicotine solutions, which are consumed via electronic smoking devices such as electronic cigarettes, are sold in thousands of flavors that appeal to youth, such as cotton candy and bubble gum.

(d) Much as young people disproportionately use flavored tobacco products including menthol cigarettes, the same can be said of certain minority groups. In one survey, the percentage of people who smoke cigarettes that reported smoking menthol cigarettes in the prior month included, most dramatically, 82.6% of Blacks or African-Americans who smoke cigarettes. The statistics for other groups were: 53.2% of Native Hawaiians or Other Pacific Islanders who smoke cigarettes; 36.9% of individuals with multiracial backgrounds who smoke cigarettes; 32.3% of Hispanics or Latinos who smoke cigarettes; 31.2% of Asians who smoke cigarettes; 24.8% of American Indians or Alaska Natives who smoke cigarettes; and 23.8% of Whites or Caucasians who smoke cigarettes. People who identify as LGBT and young adults with mental health conditions also struggle with disproportionately high rates of menthol cigarette use. The disproportionate use of menthol cigarettes among targeted groups, especially the extremely high use among African-Americans, is troubling because of the long-term adverse health impacts on those groups.

(e) Between 2004 and 2014, overall smoking prevalence decreased, but use of menthol cigarettes increased among both young adults (ages 18-25) and other adults (ages 26+). These statistics are consistent with the finding that smoking menthol cigarettes reduces the likelihood of successfully quitting smoking. Scientific modeling has projected that a national ban on menthol cigarettes could save between 300,000 and 600,000 lives by 2050.

SEC. 190.2. DEFINITIONS.

For purposes of this Article 190, the following definitions shall apply:

"Characterizing Flavor" means a Distinguishable taste or aroma or both, other than the taste or aroma of tobacco, imparted by a Tobacco Product or any byproduct produced by the Tobacco Product. Characterizing Flavors include, but are not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb, or spice. A Tobacco Product shall not be determined to have a Characterizing Flavor solely because

of the use of additives or flavorings or the provision of ingredient information. Rather, it is the presence of a Distinguishable taste or aroma or both, as described in the first sentence of this definition, that constitutes a Characterizing Flavor.

"Cigarette" has the meaning set forth in 21 U.S.C. § 387(3), as may be amended from time to time.

"Constituent" means any ingredient, substance, chemical, or compound, other than tobacco, water, or reconstituted tobacco sheet that is added by the manufacturer to a Tobacco Product during the processing, manufacture, or packing of the Tobacco Product.

"Director" has the meaning set forth in Health Code Section 19H.2.

"Distinguishable" means perceivable by either the sense of smell or taste.

"Establishment" has the meaning set forth in Health Code Section 19H.2.

"Flavored Cigarette" means a Cigarette that contains a Constituent that imparts a Characterizing Flavor.

"Flavored Tobacco Product" means any Tobacco Product, other than a Cigarette, that contains a Constituent that imparts a Characterizing Flavor.

"Labeling" means written, printed, pictorial, or graphic matter upon any Tobacco Product or any of its Packaging.

"Packaging" means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a Tobacco Product is sold or offered for sale to a consumer.

"Tobacco Product" has the meaning set forth in Health Code Section 19H.2.

SEC 190.3. SALE OR DISTRIBUTION OF FLAVORED TOBACCO PRODUCTS PROHIBITED.

(a) The sale or distribution by an Establishment of any Flavored Tobacco Product is prohibited.

(b) There shall be a rebuttable presumption that a Tobacco Product, other than a Cigarette, is presumed to be a Flavored Tobacco Product if a Manufacturer or any of the Manufacturer's agents or employees, in the course of their agency or employment, has:

(1) made a statement or claim directed to consumers or to the public that the Tobacco Product has or produces a Characterizing Flavor, including, but not limited to, text, color, and/or images on the product's Labeling or Packaging that are used to explicitly or implicitly communicate that the Tobacco Product has a Characterizing Flavor; or

(2) taken actions directed to consumers that would be reasonably expected to result in consumers receiving the message that the Tobacco Product imparts a Characterizing Flavor.

SEC 190.4. SALE OR DISTRIBUTION OF FLAVORED CIGARETTES PROHIBITED.

(a) The sale or distribution by an Establishment of any Flavored Cigarette is prohibited.

(b) There shall be a rebuttable presumption that a Cigarette is presumed to be a Flavored Cigarette if a Manufacturer or any of the Manufacturer's agents or employees, in the course of their agency or employment, has:

(1) made a statement or claim directed to consumers or to the public that the Cigarette has or produces a Characterizing Flavor, including, but not limited to, text, color, and/or images on the product's Labeling or Packaging that are used to explicitly or implicitly communicate that the Cigarette has a Characterizing Flavor; or

(2) taken actions directed to consumers that would be reasonably expected to result in consumers receiving the message that the Cigarette imparts a Characterizing Flavor.

1 **SEC. 190.5. ADMINISTRATIVE REGULATIONS.**

2 The Director may adopt rules, regulations, or guidelines for the implementation and
3 enforcement of this Article 190.

4
5 **SEC. 190.6. ENFORCEMENT.**

6 The Director, or his or her designee, may enforce Sections 190.3 and 190.4 pursuant to
7 Articles 19 et seq. of the Health Code, including but not limited to Article 19H.

8
9 **SEC 190.7. NO CONFLICT WITH FEDERAL OR STATE LAW.**

10 Nothing in this Article 19.0 shall be interpreted or applied so as to create any requirement,
11 power, or duty that is preempted by federal or state law.

12
13 **SEC. 190.8. SEVERABILITY.**

14 If any section, subsection, sentence, clause, phrase, or word of this Article 190, or any
15 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a court
16 of competent jurisdiction, such decision shall not affect the validity of the remaining portions or
17 applications of the Article. The Board of Supervisors hereby declares that it would have passed this
18 Article, and each section, subsection, sentence, clause, phrase, and word not declared invalid or
19 unconstitutional without regard to whether any other portion of this Article or application thereof
20 would be subsequently declared invalid or unconstitutional.

21
22 Section 2. The Health Code is hereby amended by adding Section 19H.14-2, to read
23 as follows:
24
25

SEC. 19H.14-2. CONDUCT VIOLATING HEALTH CODE ARTICLE 19O (PROHIBITING THE SALE OF FLAVORED TOBACCO PRODUCTS).

(a) Upon a decision by the Director that the Permittee or the Permittee's agent or employee has engaged in any conduct that violates Health Code Section 19O.3 (Sale or Distribution of Flavored Tobacco Products Prohibited), the Director may suspend a Tobacco Sales permit as set forth in Section 19H.19.

(b) Upon a decision by the Director that the Permittee or the Permittee's agent or employee has engaged in any conduct that violates Health Code Section 19O.4 (Sale or Distribution of Flavored Cigarettes Prohibited), the Director may suspend a Tobacco Sales permit as set forth in Section 19H.19.

(c) The Director shall commence enforcement under this Section 19H.14-2 by serving either a notice of correction under Section 19H.21 or a notice of initial determination under Section 19H.22 of this Article 19H.

//

//

//

//

//

//

//

//

//

//

//

//

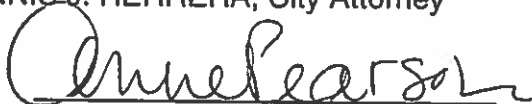
1 Section 3. Effective and Operative Dates.

2 (a) This ordinance shall become effective 30 days after enactment. Enactment
3 occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or
4 does not sign the ordinance within ten days of receiving it, or the Board of Supervisors
5 overrides the Mayor's veto of the ordinance.

6 (b) This ordinance shall become operative on ~~January~~April 1, 2018.

7
8
9 APPROVED AS TO FORM:
10 DENNIS J. HERRERA, City Attorney

11 By:


12 Anne Pearson
13 Deputy City Attorney

14 n:\egana\as2017\1700412\01200817.docx



City and County of San Francisco
Tails
Ordinance

City Hall
 1 Dr. Carlton B. Goodlett Place
 San Francisco, CA 94102-4689

File Number: 170441

Date Passed: June 27, 2017

Ordinance amending the Health Code to prohibit tobacco retailers from selling flavored tobacco products, including menthol cigarettes.

June 14, 2017 Public Safety and Neighborhood Services Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

June 14, 2017 Public Safety and Neighborhood Services Committee - RECOMMENDED AS AMENDED

June 20, 2017 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

Ayes: 9 - Breed, Cohen, Fewer, Peskin, Ronen, Safai, Sheehy, Tang and Yee
 Excused: 2 - Farrell and Kim

June 20, 2017 Board of Supervisors - PASSED ON FIRST READING AS AMENDED


Ayes: 9 - Breed, Cohen, Fewer, Peskin, Ronen, Safai, Sheehy, Tang and Yee
 Excused: 2 - Farrell and Kim

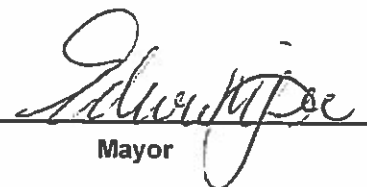
June 27, 2017 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Breed, Cohen, Farrell, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Tang and Yee

File No. 170441

I hereby certify that the foregoing
 Ordinance was FINALLY PASSED on
 6/27/2017 by the Board of Supervisors of
 the City and County of San Francisco.


 Angela Calvillo
 Clerk of the Board


 Mayor

7/7/2017
 Date Approved