

**SENATE . . . . . No. 86**

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By Ms. Pines, a petition (accompanied by bill, Senate, No. 86) of Lois G. Pines, Brian P. Lees, Dianne Wilkerson, Louis L. Kafka and other members of the General Court for legislation to provide unpaid family and medical leave. Commerce and Labor.

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**The Commonwealth of Massachusetts**

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In the Year One Thousand Nine Hundred and Ninety-Seven.

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AN ACT PROVIDING UNPAID FAMILY AND MEDICAL LEAVE.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Chapter 149 of the General Laws is hereby amended by adding  
2 the following section: —

3 Section 105E. (1) The following word shall have the following  
4 meaning, unless the context requires or specifically prescribes a  
5 different meaning:—

6 “Employer,” any person in the commonwealth engaged in com-  
7 merce or in any industry or activity affecting commerce who  
8 employs fifty or more employees for each working day during  
9 each of twenty or more calendar workweeks in the current or pre-  
10 ceding calendar year in nineteen hundred ninety-seven, who  
11 employs thirty-five or more employees for each working day dur-  
12 ing each of twenty or more calendar workweeks in nineteen hun-  
13 dred ninety-eight, who employs fifteen or more employees for  
14 each working day during each of 20 or more calendar workweeks  
15 in nineteen hundred ninety-nine, and does not include the com-  
16 monwealth, its subdivisions, or any agencies, commissions or  
17 authorities of the state.

18 (2)(a) Except as otherwise provided by this section, an  
19 employer shall provide leave and be subject to the requirements of  
20 the Family and Medical Leave Act of 1993.

21 (b) Nothing in this section prohibits an employer from provid-  
22 ing employees with more generous rights to leave than those  
23 rights provided to them under this section.

24 (c) This section does not limit or diminish an employee's rights  
25 under chapter one hundred and fifty-two.

26 (3)(a) Subject to paragraph (b), during the period any employee  
27 takes leave under this section, the employer shall offer to maintain  
28 group health benefits under the conditions that applied  
29 immediately before the leave began.

30 (b) During the leave period, the employer may require the  
31 employee to make the contribution normally paid by the employee  
32 for the group health benefits, plus any contribution normally made  
33 by the employer on behalf of the employee.

34 (4) It shall be unlawful for any person to discharge or in any  
35 other manner discriminate against any individual because such  
36 individual: —

37 (a) has filed any charge, or has instituted or caused to be insti-  
38 tuted any proceeding, under or related to this section;

39 (b) has given, or is about to give, any information in connection  
40 with any inquiry or proceeding relating to any right provided  
41 under this section;

42 (c) has testified, or is about to testify in any inquiry or proceed-  
43 ing relating to any right provided under this section.

44 (5) In the event an employee believes an employer has violated  
45 subsection (4), such employee shall have available at law or  
46 equity, the remedies provided under sections one hundred and  
47 forty-eight to one hundred and fifty, inclusive, of chapter one hun-  
48 dred and forty-nine. The department of labor may take any and all  
49 appropriate actions to enforce the provisions of this section under  
50 the authority provided in said sections one hundred and forty-  
51 eight to one hundred and fifty, inclusive, of said chapter one hun-  
52 dred and forty-nine.

53 (6) Each employer shall post, in one or more conspicuous  
54 places where he or she customarily posts notices to employees, a  
55 notice in a form approved by the department setting forth em-  
56 ployees' rights under this section. Any employer who violates this  
57 subsection shall be subject to a fine of not more than one hundred  
58 dollars for each offense. Each day that any employer fails to post  
59 the prescribed notice shall constitute a separate offense.