

AMENDED IN ASSEMBLY APRIL 3, 2025  
AMENDED IN ASSEMBLY MARCH 24, 2025  
CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1326**

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**Introduced by Assembly Member Ahrens**

February 21, 2025

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An act to add ~~Section 248.4 to the Labor Code, relating to employment; Chapter 26 (commencing with Section 28050) to Division 20 of the Health and Safety Code, relating to personal protective equipment.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1326, as amended, Ahrens. ~~Employment: supplemental paid sick leave; health emergencies. Masks: individual or public health.~~

*Existing law sets forth various provisions on the wearing of a mask for health purposes. These circumstances include, among others, a statewide stockpile of personal protective equipment (PPE) in the event of a pandemic, wildfire smoke event, or other health emergency; employer-supplied PPE to employees who provide direct patient care in a general acute care hospital; employees of commercial cannabis businesses wearing a mask for respiration; and providing peace officers with an appropriate portable manual mask and airway assembly for use when applying cardiopulmonary resuscitation to prevent the spread of communicable disease.*

*Under this bill, an individual would have the right to wear a mask on their face in a public place for the purpose of protecting their individual health or the public health, with regard to communicable*

disease, air quality, or other health factors. The bill would define a mask and a public place for purposes of this provision.

Under the bill, the above-described right would not be construed as limiting or otherwise modifying the application or implementation of certain requirements for the removal of a mask relating to, among other contexts, security protocols to identify an individual, a bona fide occupational qualification, or emergency health care protocols, as specified.

Existing law, the Healthy Workplaces, Healthy Families Act of 2014, entitles an employee who works in California for the same employer for 30 or more days within a year from the commencement of employment to paid sick days. Under existing law, an employee accrues paid sick days at a rate of not less than one hour per every 30 hours worked, subject to certain use, accrual, and yearly carryover limitations. Existing law requires the Labor Commissioner to enforce the act and provides for procedures, including investigation and hearing, and for remedies and penalties.

Existing law, until December 31, 2022, also provided COVID-19 supplemental paid sick leave for covered employees, as defined, who were unable to work or telework due to certain reasons related to COVID-19, including that the employee was advised by a health care provider to self-quarantine, as specified. Existing law requires the Labor Commissioner to enforce these COVID-19 supplemental paid sick leave provisions.

This bill, upon appropriation by the Legislature, would entitle a covered employee, as defined, to supplemental paid sick leave if that employee is unable to work or telework for reasons related to a health emergency, including COVID-19, avian influenza, measles, or another communicable disease outbreak, as prescribed in an order or guidelines of certain governmental health officials. The bill would entitle a covered employee to 80 hours of supplemental paid sick leave if that employee works full time or was scheduled to work, on average, at least 40 hours per week for the employer in the 2 weeks preceding the date the covered employee took supplemental paid sick leave. The bill would provide a different calculation for supplemental paid sick leave for a covered employee working fewer or variable hours. The bill would provide that the total number of hours of COVID-19 supplemental paid sick leave to which a covered employee is entitled to under these provisions is in addition to any paid sick leave available under the act. The bill would require each hour of supplemental paid sick leave to be compensated

at a specified rate, as prescribed. The bill would also require the Labor Commissioner to enforce these provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Chapter 26 (commencing with Section 28050) is  
2     added to Division 20 of the Health and Safety Code, to read:

3  
4             CHAPTER 26. RIGHT TO WEAR A HEALTH MASK  
5

6     28050. For purposes of this chapter, the following definitions  
7     apply:

8     (a) "Mask" means any of the following masks for placement  
9     on an individual's face:

10    (1) A filtering facepiece respirator, such as an N95 or KN95  
11    mask.

12    (2) A surgical mask.

13    (3) A cloth mask.

14    (4) Another mask within the scope of personal protective  
15    equipment, as defined in Section 131021.

16    (b) "Public place" means any of the following:

17    (1) A place of business that is open to the general public for the  
18    sale of goods or services.

19    (2) Another place of public accommodation, as defined in  
20    Section 2000a of Title 42 of the United States Code, or within the  
21    scope of entities that are subject to Section 51 of the Civil Code.

22    (3) A governmental or public building or place open to the  
23    general public.

24    (4) A street, road, plaza, park, or other outdoor space open to  
25    the general public.

26    (5) A mode of public transportation.

27    (6) A clinic, a hospital or other health facility, a care facility,  
28    or other health care setting.

29    (7) An academic institution or other educational setting.

30    (8) An employment setting or other workplace.

31    28051. An individual has the right to wear a mask on their face  
32    in a public place for the purpose of protecting their individual  
33    health or the public health, with regard to communicable disease,

1 air quality, or other health factors, subject to any limitations  
2 described in this chapter.

3 28052. Section 28051 shall not be construed as limiting or  
4 otherwise modifying the application or implementation of any of  
5 the following:

6 (a) Any requirement to temporarily remove a mask for  
7 identification purposes through facial recognition, as part of  
8 security regulations, procedures, or protocols under federal or  
9 state law, or as part of the policy of a public place if identification  
10 of an individual is required for entry into the public place and  
11 removal of the mask is necessary for that identification.

12 (b) Any requirement to avoid obstruction of vision while  
13 operating a vehicle. It is the intent of the Legislature that a mask  
14 worn as described in this chapter is in the form of covering an  
15 individual's mouth and nose and not an individual's eyes.

16 (c) Any requirement to remove a mask for purposes of a bona  
17 fide occupational qualification.

18 (d) Any health care protocols to remove a mask as necessary  
19 to access an individual's face in order to perform a health care  
20 treatment or procedure on an emergency basis.

21 (e) Section 185 of the Penal Code.

22 SECTION 1. ~~Section 248.4 is added to the Labor Code, to~~  
23 ~~read:~~

24 ~~248.4. (a) As used in this section:~~

25 (1) ~~“Supplemental paid sick leave” means supplemental paid~~  
26 ~~sick leave provided pursuant to this section.~~

27 (2) ~~“Employer” means an employer, as defined in subdivision~~  
28 ~~(b) of Section 245.5, that employs more than 25 employees.~~

29 (3) ~~“Covered employee” means an employee who is unable to~~  
30 ~~work or telework for an employer because of a reason listed under~~  
31 ~~paragraph (1) of subdivision (b).~~

32 (b) ~~Upon appropriation by the Legislature, a covered employee~~  
33 ~~shall be entitled to supplemental paid sick leave as follows:~~

34 (1) ~~An employer shall provide supplemental paid sick leave to~~  
35 ~~each covered employee if that covered employee is unable to work~~  
36 ~~or telework due to any of the following reasons:~~

37 (A) ~~The covered employee is subject to a quarantine or isolation~~  
38 ~~period related to a health emergency, including, but not limited~~  
39 ~~to, COVID-19, avian influenza, measles, or another communicable~~  
40 ~~disease outbreak, as described or defined in an order or guidelines~~

1 of the State Department of Public Health, the federal Centers for  
2 Disease Control and Prevention, or a local health officer who has  
3 jurisdiction over the workplace. If the covered employee is subject  
4 to more than one of the foregoing, the covered employee shall be  
5 permitted to use supplemental paid sick leave for the minimum  
6 quarantine or isolation period under the order or guidelines that  
7 provides for the longest such minimum period.

8 (B) The covered employee has been advised by a health care  
9 provider to self-quarantine due to concerns related to the health  
10 emergency.

11 (C) The covered employee is attending an appointment to  
12 receive a vaccine for protection against contracting the contagious  
13 disease related to the health emergency.

14 (D) The covered employee is experiencing symptoms related  
15 to a vaccine administered to protect against the contagious disease  
16 related to the health emergency and those symptoms prevent the  
17 employee from being able to work or telework.

18 (E) The covered employee is experiencing symptoms and  
19 seeking a medical diagnosis related to the health emergency.

20 (F) The covered employee is caring for a family member, as  
21 defined in subdivision (c) of Section 245.5, who is subject to an  
22 order or guidelines described in subparagraph (A), or who has  
23 been advised to self-quarantine, as described in subparagraph (B).

24 (G) The covered employee is caring for a child, as defined in  
25 subdivision (e) of Section 245.5, whose school or place of care is  
26 closed or otherwise unavailable for reasons related to the health  
27 emergency on the premises.

28 (2) A covered employee shall be entitled to the following  
29 number of hours of supplemental paid sick leave:

30 (A) Eighty hours of supplemental paid sick leave, if the covered  
31 employee satisfies either of the following criteria:

32 (i) The employer considers the covered employee to work full  
33 time.

34 (ii) The covered employee worked or was scheduled to work,  
35 on average, at least 40 hours per week for the employer in the two  
36 weeks preceding the date the covered employee took supplemental  
37 paid sick leave.

38 (B) A covered employee who does not satisfy the criteria in  
39 subparagraph (A) is entitled to an amount of supplemental paid  
40 sick leave as follows:

1 (i) ~~If the covered employee has a normal weekly schedule, the~~  
2 ~~total number of hours the covered employee is normally scheduled~~  
3 ~~to work for the employer over two weeks.~~

4 (ii) ~~If the covered employee works a variable number of hours,~~  
5 ~~14 times the average number of hours the covered employee~~  
6 ~~worked each day for the employer in the six months preceding the~~  
7 ~~date the covered employee took supplemental paid sick leave. If~~  
8 ~~the covered employee has worked for the employer over a period~~  
9 ~~of fewer than six months but more than 14 days, this calculation~~  
10 ~~shall instead be made over the entire period the covered employee~~  
11 ~~has worked for the employer.~~

12 (iii) ~~If the covered employee works a variable number of hours~~  
13 ~~and has worked for the employer over a period of 14 days or fewer,~~  
14 ~~the total number of hours the covered employee has worked for~~  
15 ~~that employer.~~

16 (C) ~~The total number of hours of supplemental paid sick leave~~  
17 ~~to which a covered employee is entitled pursuant to subparagraph~~  
18 ~~(A) or (B) shall be in addition to any paid sick leave that may be~~  
19 ~~available to the covered employee under Section 246.~~

20 (D) ~~A covered employee may determine how many hours of~~  
21 ~~supplemental paid sick leave to use, up to the total number of hours~~  
22 ~~to which the covered employee is entitled pursuant to subparagraph~~  
23 ~~(A) or (B). The employer shall make supplemental paid sick leave~~  
24 ~~available for immediate use by the covered employee, upon the~~  
25 ~~oral or written request of the covered employee to the employer.~~

26 (E) ~~An employer is not required to provide a covered employee~~  
27 ~~more than the total number of hours of supplemental paid sick~~  
28 ~~leave to which the covered employee is entitled pursuant to~~  
29 ~~subparagraph (A) or (B).~~

30 (3) ~~Each hour of supplemental paid sick leave shall be~~  
31 ~~compensated at a rate equal to the following:~~

32 (A) ~~For nonexempt covered employees, by the highest of the~~  
33 ~~following:~~

34 (i) ~~Calculated in the same manner as the regular rate of pay for~~  
35 ~~the workweek in which the covered employee uses supplemental~~  
36 ~~paid sick leave, whether or not the employee actually works~~  
37 ~~overtime in that workweek.~~

38 (ii) ~~Calculated by dividing the covered employee's total wages,~~  
39 ~~not including overtime premium pay, by the employee's total hours~~  
40 ~~worked in the full pay periods of the prior 90 days of employment.~~

1 ~~(iii) The state minimum wage.~~

2 ~~(iv) The local minimum wage to which the covered employee~~  
3 ~~is entitled.~~

4 ~~(B) Supplemental paid sick leave for exempt covered employees~~  
5 ~~shall be calculated in the same manner as the employer calculates~~  
6 ~~wages for other forms of paid leave time.~~

7 ~~(4) An employer shall not require a covered employee to use~~  
8 ~~any other paid or unpaid leave, paid time off, or vacation time~~  
9 ~~provided by the employer to the covered employee before the~~  
10 ~~covered employee uses supplemental paid sick leave or in lieu of~~  
11 ~~supplemental paid sick leave.~~

12 ~~(e) Notwithstanding subdivision (b), if an employer pays a~~  
13 ~~covered employee another supplemental benefit for leave taken~~  
14 ~~on or after January 1, 2026, that is payable for the reasons listed~~  
15 ~~in paragraph (1) of subdivision (b) and that compensates the~~  
16 ~~covered employee in an amount equal to or greater than the amount~~  
17 ~~of compensation for supplemental paid sick leave to which the~~  
18 ~~covered employee is entitled as set forth under paragraph (3) of~~  
19 ~~subdivision (b), then the employer may count the hours of the other~~  
20 ~~paid benefit or leave towards the total number of hours of~~  
21 ~~supplemental paid sick leave that the employer is required to~~  
22 ~~provide to the covered employee under paragraph (2) of subdivision~~  
23 ~~(b). For purposes of the foregoing, the other supplemental benefit~~  
24 ~~for leave taken that may be counted does not include paid sick~~  
25 ~~leave to which the covered employee is entitled under Section 246,~~  
26 ~~subdivision (e) of Section 248, or subdivision (f) of Section 248.1~~  
27 ~~but may include paid leave provided by the employer pursuant to~~  
28 ~~any federal or local law in effect or that became effective on or~~  
29 ~~after January 1, 2026, if the paid leave is provided to the covered~~  
30 ~~employee under that law for any of the same reasons set forth in~~  
31 ~~paragraph (1) of subdivision (b).~~

32 ~~(d) In addition to other remedies as may be provided by the laws~~  
33 ~~of this state or its subdivisions, including, but not limited to, the~~  
34 ~~remedies available to redress any unlawful business practice under~~  
35 ~~Chapter 5 (commencing with Section 17200) of Part 2 of Division~~  
36 ~~7 of the Business and Professions Code, the Labor Commissioner~~  
37 ~~shall enforce this section. For purposes of enforcement and to~~  
38 ~~implement supplemental paid sick leave, this section shall apply~~  
39 ~~as follows:~~

1 ~~(1) The Labor Commissioner shall enforce this section as if~~  
2 ~~supplemental paid sick leave constitutes “paid sick days,” “paid~~  
3 ~~sick leave,” or “sick leave” under subdivisions (i) and (n) of Section~~  
4 ~~246, subdivisions (b) and (c) of Section 246.5, Section 247, Section~~  
5 ~~247.5, and Section 248.5.~~

6 ~~(2) For purposes of the enforcement of subdivision (i) of Section~~  
7 ~~246 as it relates to this section:~~

8 ~~(A) Supplemental paid sick leave shall be set forth separately~~  
9 ~~from paid sick days.~~

10 ~~(B) The requirement in subdivision (i) of Section 246 is not~~  
11 ~~enforceable until the next full pay period following the date that~~  
12 ~~this section takes effect.~~

13 ~~(C) When covered employees have schedules described in~~  
14 ~~clauses (ii) and (iii) of subparagraph (B) of paragraph (2) of~~  
15 ~~subdivision (b), an employer may meet the requirement of~~  
16 ~~subdivision (i) of Section 246 for covered employees by doing an~~  
17 ~~initial calculation of supplemental paid sick leave available and~~  
18 ~~indicating “(variable)” next to that calculation. This, however,~~  
19 ~~does not exempt an employer from providing a covered employee~~  
20 ~~an updated calculation when such a covered employee requests to~~  
21 ~~use supplemental paid sick leave or requests relevant records under~~  
22 ~~Section 247.5.~~

23 ~~(3) Section 249 applies to supplemental paid sick leave.~~

24 ~~(4) No later than seven days after the date of enactment of this~~  
25 ~~section, the Labor Commissioner shall make publicly available a~~  
26 ~~model notice for purposes of Section 247. Only for purposes of~~  
27 ~~supplemental paid sick leave, if an employer’s covered employees~~  
28 ~~do not frequent a workplace, the employer may satisfy the notice~~  
29 ~~requirement of subdivision (a) of Section 247 by disseminating~~  
30 ~~notice through electronic means, such as by electronic mail.~~

31 ~~(e) The provisions of this section are severable. If any provision~~  
32 ~~of this section or its application is held invalid, that invalidity shall~~  
33 ~~not affect other provisions or applications that can be given effect~~  
34 ~~without the invalid provision or application.~~

35 ~~(f) The provisions of this section shall not apply to providers~~  
36 ~~of in-home supportive services under Section 14132.95, 14132.952,~~  
37 ~~or 14132.956 of, or Article 7 (commencing with Section 12300)~~  
38 ~~of Chapter 3 of Part 3 of Division 9 of, the Welfare and Institutions~~

- 1 ~~Code, or waiver personal care services pursuant to Section~~
- 2 ~~14132.97 of the Welfare and Institutions Code.~~

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