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Proposed Regulation Agency Background Document

Agency name	Virginia Department of Labor and Industry
Virginia Administrative Code (VAC) Chapter citation(s)	16VAC15-90
VAC Chapter title(s)	Paid Sick Leave Regulation
Action title	Proposed Action - Paid Sick Leave Regulation
Date this document prepared	September 14, 2026

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

Chapters 1128 and 1129 of the 2026 Virginia Acts of Assembly require the Department of Labor and Industry (DOLI) to promulgate regulations necessary to implement new paid sick leave rights for Virginia workers, as outlined in Code of Virginia §§ 40.1-33.6:1-6:7. DOLI intends to promulgate a new chapter of regulations, 16 VAC15-90, to meet this statutory mandate. DOLI must promulgate new regulations by July 1, 2027. DOLI is initiating this proposed stage regulatory action to fulfill this mandate.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

- "Commissioner" means the Commissioner of Labor and Industry.

- “DOLI” or “Department” means the Department of Labor and Industry
- “Employee” has the same meaning as provided in § 40.1-33.6:1.
- “Paid sick leave” means the benefits provided under the terms of §§ 40.1-33.6:1-6:7 of the Code of Virginia.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

The mandate for this regulatory change is Chapters 1128 and 1129 of the 2026 Virginia Acts of Assembly, which direct DOLI to promulgate regulations for the implementation and enforcement of paid sick leave rights for Virginia workers, as provided in Code of Virginia §§ 40.1-33.6:1-6:7.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.

The Department of Labor and Industry is the promulgating agency.

DOLI’s legal authority for this regulation is the 2026 Acts of Assembly, Chapters 1128 and 1129. Specifically, the third enactment clause of Chapters 1128 and 1129 expressly directs DOLI to: “adopt regulations pursuant to § 40.1-33.6:7 of the Code of Virginia, as created by this act, for the implementation and enforcement of Article 2.1:1 (§ 40.1-33.6:1 et seq.) of Chapter 3 of Title 40.1 of the Code of Virginia, as created by this act.”

In addition, § 40.1-6 of the Code of Virginia, which establishes DOLI’s general powers and duties, provides in relevant parts that the Commissioner has the legal authority to “make such rules and regulations as may be necessary for the enforcement of this title ...”

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

The purpose of this regulatory action is to establish a new regulatory chapter to implement the Commonwealth’s newly enacted paid sick leave law, outlined in § 40.1-33.6:1 through § 40.1-33.6:7 of the Code of Virginia. In this new chapter, DOLI will establish a statewide framework for paid sick leave rights and responsibilities for Virginia employees and employers. This new regulatory chapter will fulfill DOLI’s statutory responsibility to issue regulations governing certain aspects of Virginia’s employer-provided paid sick leave law. When finalized, these regulations will protect the public health, safety, and

welfare of Virginians by providing employees a right to accrue and use up to 40 hours a year of paid time off for:

- 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; or an employee's need for preventive medical care;
- 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; or care of a family member who needs preventive medical care; or
- Absence due to domestic violence, sexual assault, or stalking, provided that the leave is to allow the employee to seek or obtain medical care, mental health care, counseling, legal services, relocation or securing of an existing home, or other victim services for the employee or the employee's family member.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

The proposed regulation establishes the administrative framework necessary to implement and enforce the Code of Virginia §§ 40.1-33.6:1-6:7. As directed by the General Assembly, the regulation establishes standards governing the administration and enforcement of paid sick leave requirements for covered employers and employees. Key information addressed in this new regulatory chapter includes:

- **Definitions.** Defines key terms used throughout the chapter. These definitions provide a consistent framework for interpreting and administering the paid sick leave requirements.
- **General Provisions.** Clarifies general provisions, including that employers are encouraged to adopt or retain more generous policies than the minimum standards required by the Act.
- **Employer Coverage.** Provides further clarification about the employers and employees covered by the paid sick leave requirements, including clarifying how employer size and coverage will be determined during the statute's phased implementation.
- **Accrual of Paid Sick Leave.** Clarifies how covered employees accrue paid sick leave under the statute. The proposed regulatory scheme aligns paid sick accrual methods with employers' existing recordkeeping responsibilities to reduce duplicative compliance costs, while ensuring that employees will fairly accrue paid sick leave. The Proposed Regulation would also further clarify employers' ability to satisfy accrual requirements by voluntarily providing workers with 40 hours of paid sick leave or equivalent paid time off, providing employers with greater flexibility to satisfy the statute's requirements and options to reduce administrative cost. It also clarifies accrual rights applicable to employees working remotely from the Commonwealth, carryover requirements, establishes an accrual method for employees compensated on a fee-for-service basis, and clarifies other key issues.
- **Use of Paid Sick Leave.** Establishes clear and predictable framework governing employees' request for and use of available paid sick leave, including employees' responsibility to provide advance notice of foreseeable leave, the form of leave requests, and employer policies related to leave increments. This section also provides greater clarity about employees' use of paid leave to care for people with whom they have a familial relationship.

- **Compensation for Paid Sick Leave.** Clarifies common questions related to the compensation of paid sick leave, which § 40.1-33.6:1 provides must be paid at the regular rate of pay. This section addresses tipped employees, employees working at multiple rates, salaried employees, employees working shifts of indeterminate duration, and use of leave during overtime hours.
- **Leave Administration.** Requires covered employers to maintain a written paid sick leave policy and specifies the policy's minimum required contents. This section also addresses documentation, designation and modification of the employer's 12-month leave year, and optional arrangements for advancing or loaning unaccrued leave.
- **Protections Against Retaliation and Interference.** Clarifies the statutory prohibitions against retaliation and interference with an employee's paid sick leave rights, including by providing examples of conduct that may constitute unlawful retaliation or interference with the exercise of those rights.
- **Notice and Recordkeeping Requirements.** Establishes how, where, and when employers must inform employees of their paid sick leave rights. It also requires employers to maintain specified records for three years, subject to identified exceptions, and to preserve relevant records while an enforcement matter is pending. This section also establishes that the Department will publish a sample notice that employers may use to satisfy their notice responsibilities. The Proposed Regulation aims to minimize employer recordkeeping responsibilities, while ensuring adequate notice and recordkeeping to effectively administer and enforce the law.
- **Investigations and Enforcement.** Establishes procedures for DOLI to investigate and resolve alleged violations, including formal determinations, informal conferences, corrective action, compliance agreements, final orders, civil penalties, and enforcement. The regulation provides that the Department will not assess penalties against employer that correct violations within 15 days of receiving notice of those violations, aligns the corrections period with DOLI's administrative procedures, and clarifies the interaction of coordination of administrative and judicial recoveries.

For more detail, please see "Proposed Changes" below.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

This regulation benefits the public by providing greater clarity regarding employer and employee responsibilities, promoting consistent implementation of the statutory requirements, and establishing uniform standards for paid sick leave administration, recordkeeping, investigations, and enforcement. The regulation also provides employers and workers options for complying with the law. The proposed regulations will benefit workers by ensuring that they have adequate access to paid sick leave that allows them to care for themselves and their families, while remaining in the workforce. The proposed regulations will benefit businesses by allowing them to offer competitive benefits that will help them attract and retain employees.

The primary challenge workers may face is awareness of and access to information about their rights to take paid sick leave from work. Employers, primarily employers that do not currently provide paid sick leave, will have increased administrative responsibilities and compliance costs associated with

implementing the statutory requirements. These may include reviewing and revising existing leave policies, updating payroll and recordkeeping practices, and providing employee notices and training. Because many of these obligations arise directly from the authorizing statute, the proposed regulation has been drafted to minimize unnecessary administrative costs for employers.

For the Commonwealth and DOLI, the regulation establishes the administrative framework necessary to implement and enforce the authorizing statute, providing consistency in program administration and enforcement. Implementation may require additional administrative resources to support program administration, stakeholder assistance, investigations, and enforcement activities.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no applicable analogous federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

There are no other state agencies that will be disproportionately impacted by this regulatory change.

Localities Particularly Affected

There are no localities that will be disproportionately impacted by this regulatory change.

Other Entities Particularly Affected

Eligible employers will be required to comply with this law. However, none of these entities will be disproportionately impacted by this regulatory change.

Economic Impact

Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits) anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.

Impact on State Agencies

<i>For your agency:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources.	DOLI will be responsible for enforcing the Virginia Paid Sick Leave law beginning in July 1, 2027, including by receiving complaints and conducting investigations. Further, DOLI will be responsible for developing guidance, know-your-rights information, and compliance assistance resources for employers. DOLI is receiving ongoing General Funds of \$3.5 million for Wage Protection staff to carry out these and other expanded labor and employment law responsibilities. Pursuant to §40.1-33.6:7 of the Code of Virginia, civil penalties may be assessed for violations of the authorizing statute. The statute authorizes civil penalties of \$150, \$300, and \$500, depending on the nature of the violation, with all civil penalty revenue deposited into the General Fund. The amount of any revenue generated is indeterminate and will depend on future complaint volumes, enforcement activities, and compliance.
<i>For other state agencies:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	Implementation of the authorizing statute through this regulation may also affect other state agencies responsible for administering programs or employing individuals covered by the statute.
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	This regulation is designed to improve workforce stability, public health outcomes, and service continuity across all Virginia agencies and public sector employers.

Impact on Localities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.

Projected costs, savings, fees, or revenues resulting from the regulatory change.	Like other employers, localities employing individuals covered by the statute may incur administrative and personnel-related costs associated with implementing the statutory paid sick leave requirements. Because public-sector workers are significantly more likely to already have paid sick leave, the anticipated costs for localities will be low.
Benefits the regulatory change is designed to produce.	Like other employers, paid sick leave will create important benefits for localities, including reduced turnover, reduced spread of disease in the workplace, and increased productivity.

Impact on Other Entities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	Employee Impacts: This regulation and its underlying statute will expand Virginia's paid sick leave law to approximately 4 million Virginia workers. It will guarantee these workers the opportunity to accrue one hour of paid sick leave for every 30 hours worked, up to a total of 40 hours per year. This regulatory change is anticipated to have positive impacts on Virginia workers. Paid sick leave will allow qualifying workers to take time away from work to care for themselves or a sick family member without immediately foregoing wages. This can reduce the financial pressure on workers to continue working while sick and can facilitate earlier access to needed health care. Further, paid sick leave can reduce occupational injuries by reducing the rate at which workers in dangerous industries come to work while sick, which increases the risk of injury, and improves workers' economic security and attachment to the labor force This regulation will have the most significant benefits for low-wage workers who currently have limited access to paid sick leave. Nationwide, only 58% of the lowest-income workers have access to paid sick leave, while 94% of high-wage workers do.¹ Employer Impacts: This regulation and its underlying statute will affect employers who do not currently provide paid sick leave benefits. Employer Costs: Employers who do not already provide paid sick leave benefits or equivalent time off will be required to pay for up to 40 hours of paid sick leave a year per employee. Some employers may also incur one-time costs to establish a system for tracking and providing paid sick leave and use staff time to develop new paid sick or update existing paid sick policies to meet new statutory and regulatory requirements. Research also suggests that the costs of paid sick leave protections on employers are relatively modest.² Employer Benefits: Paid sick leave will provide important economic benefits to employers. Research has found that paid sick leave reduces employee turnover, limits the transmission of contagious illnesses in workplaces, increases productivity, and can even increase firm
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¹ Elise Gould, Access to Paid Sick Leave Continues to Grow but Remains Highly Unequal by Geography and Wage Level (Oct. 7, 2025), <https://www.epi.org/blog/access-to-paid-sick-leave-continues-to-grow-but-remains-highly-unequal-by-geography-and-wage-level/>.

² Maclean, Pichler & Ziebarth's analysis using National Compensation Survey data estimated an increase in employer sick-leave costs of approximately \$0.21 per hour for a newly covered worker, while finding no evidence in that analysis that employers reduced vacation, holidays, or health, dental, or disability insurance.

	profitability particularly in industries in which employees are required to be physically present in the workplace.^{3 4 5} ⁶ In sum, this research shows that paid sick leave protections have important benefits for employers that can offset the limited costs associated with these mandates. <i>Provisions to Reduce Employer Costs:</i> Moreover, certain provisions of the proposed regulatory chapter will further reduce costs for employers. For example, the proposed rule provides further clarity about employers' ability to provide workers with 40 hours of paid sick leave at the outset of benefit year, to avoid any costs associated with tracking employees' accrual of paid sick leave; limits new recordkeeping responsibilities for employers; and provides clarity about employer's responsibility to provide paid sick leave for employees caring for a family member. Health Care Industry Impacts: This regulation and its authorizing statute may also help reduce the spread of communicable diseases and reduce overall healthcare costs. Access to paid sick leave can reduce the number of workers that go into a workplace sick and allows workers to more frequently take themselves and their loved ones to the doctor for preventive care.⁷⁸⁹ Further, paid sick days laws are linked to a 5.6% reduction in ER visits, with the biggest reductions among Medicaid patients.¹⁰
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated, and;	Number of Workers Impacted: Based on the methodology detailed below, the agency estimates that approximately 990 thousand Virginia workers may currently lack access to employer-provided paid sick leave and therefore represent the population most likely to receive a new paid sick leave benefit. This represents approximately 25 percent of the approximately

³ Koch, Adam S. and Liang, Yi, Taking a Sick Day: The Effect of Paid Sick Leave Mandates on Financial Reporting Outcomes (November 22, 2023). Available at SSRN: <https://ssrn.com/abstract=4641353>; Asfaw A, Rosa R, Pana-Cryan R. Potential Economic Benefits of Paid Sick Leave in Reducing Absenteeism Related to the Spread of Influenza-Like Illness. J Occup Environ Med. 2017 Sep;59(9):822-829. doi: 10.1097/JOM.0000000000001076. PMID: 28692009; PMCID: PMC5649342. <https://stacks.cdc.gov/view/cdc/49245>.

⁴ Maclean, Johanna Catherine, Stefan Pichler & Nicolas R. Ziebarth, *Mandated Sick Pay: Coverage, Utilization, and Crowding-In*, NBER Working Paper No. 26832. <https://pubmed.ncbi.nlm.nih.gov/41078455/>.

⁵ Hilary Wething, Econ Policy Inst., *Reduced job turnover in small U.S. firms is an overlooked benefit of paid sick leave* (2022), <https://equitablegrowth.org/reduced-job-turnover-in-small-u-s-firms-is-an-overlooked-benefit-of-paid-sick-leave/>.

⁶ Chunyu, Liangrong, Paolo F. Volpin & Xingchen Zhu, *Do Paid Sick Leave Mandates Increase Productivity?* (rev. July 2026). https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4096707.

⁷ LeaAnne DeRigne, Patricia Stoddard-Dare & Linda Quinn, Workers Without Paid Sick Leave Less Likely to Take Time Off for Illness, 35 Health Affs. 520 (2016), <https://pubmed.ncbi.nlm.nih.gov/26953308/>

⁸ Shepherd-Banigan, M., Bell, J. F., Basu, A., Booth-LaForce, C., & Harris, J. R. (2017). Mothers' Employment Attributes and Use of Preventive Child Health Services. <https://pmc.ncbi.nlm.nih.gov/articles/PMC6936102/>

⁹ Asfaw, Abay, and Maria Colopy. "Association between parental access to paid sick leave and children's access to and use of healthcare services." <https://pubmed.ncbi.nlm.nih.gov/28169438/>

¹⁰ Yanlei Ma et al., State Mandatory Paid Sick Leave Associated With A Decline In Emergency Department Use In The US, 2011–19 (2022), <https://doi.org/10.1377/hlthaff.2022.00098>

b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	3.9 million private-sector and state and local government jobs used as the potentially covered employment base.¹¹ The table below depicts DOLI's best estimate of the number of workers who would gain paid sick leave as a result of this regulation. This estimate is based on the following data: • 28 percent of private sector workers in the South Atlantic region do not have any paid sick time.¹² There are approximately 3.35 million private-sector jobs in Virginia. $.28 \times 3.35 \text{ million} =$ approximately 938,000 private-sector workers who may currently lack access to employer-provided paid sick leave. • Among state and local government workers in the South Atlantic, approximately 9 percent do not have any paid sick time.¹³ Virginia has approximately 570,000 state and local government jobs. $.09 \times 570,000 =$ an additional estimate of approximately 51,200 public-sector workers who may currently lack access to paid sick leave. <table><tr><th>Employment category</th><th>Virginia employment</th><th>Estimated without paid sick leave</th><th>Estimated workers without access</th></tr><tr><td>Private sector</td><td>3,350,358</td><td>28%</td><td>~938,100</td></tr><tr><td>State government</td><td>153,623</td><td>9%</td><td>~13,826</td></tr><tr><td>Local government</td><td>415,065</td><td>9%</td><td>~37,356</td></tr><tr><td>Total</td><td>3,919,046</td><td></td><td>~989,282</td></tr></table> This estimate should be considered an approximation rather than a precise count of employees who will receive a new benefit under the authorizing statute. First, BLS does not publish a Virginia-specific estimate of paid sick leave access; therefore, the agency uses the South Atlantic Division as the closest available geographic estimate. Second, the employment figures measure jobs rather than unique individual workers, and an individual holding more than one job may therefore be represented more than once. Third, the estimate does not account for all statutory exclusions. For example, the authorizing	Employment category	Virginia employment	Estimated without paid sick leave	Estimated workers without access	Private sector	3,350,358	28%	~938,100	State government	153,623	9%	~13,826	Local government	415,065	9%	~37,356	Total	3,919,046		~989,282
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¹¹ Virginia Works, "Quarterly Census of Employment and Wages," <https://virginiaworks.gov/im-an-employer/plan/view-labor-market-information/quarterly-census-of-employment-and-wages/>. Data retrieved using the "Total, All Industries" setting and ownership categories for private industry, state government, and local government.

¹² U.S. Bureau of Labor Statistics, Table 6. Selected Paid Leave Benefits: Access, <https://www.bls.gov/news.release/ebs2.t06.htm>.

¹³ U.S. Bureau of Labor Statistics. *Employee Benefits in the United States, March 2025*, Table 6, Selected Paid Leave Benefits: Access. <https://www.bls.gov/news.release/ebs2.t06.htm>.

	statute excludes certain home health workers already addressed under Virginia’s existing paid sick leave law, certain health care employees working 30 hours or less per week, certain health care employees working on an as-needed basis, and employees and employers subject to the federal Railroad Unemployment Insurance Act. Certain employees covered by qualifying collective bargaining agreements under the Longshore and Harbor Workers’ Compensation Act may also be temporarily exempt. Accordingly, 990 thousand should be understood as the agency’s best estimate of the population of Virginia workers currently lacking employer-provided paid sick leave who could potentially benefit, rather than an exact estimate of newly covered employees. Number of Employers Affected: Virginia Works reports that Virginia had approximately 322,706 private, state and local- employer firms in the first quarter of 2026.¹⁴ This provides a reasonable estimate of the number of private employers potentially affected by the authorizing statute before accounting for statutory exclusions, existing paid-leave policies, and the phased employer-size thresholds. State and local government employers covered by the statute would be affected in addition to private employers Number of Small Businesses Affected: Small businesses are expected to constitute a significant portion of affected employers, particularly when coverage expands to employers with at least one employee on January 1, 2029. The statute phases in coverage to reduce the immediate impact: employers with at least 50 employees are covered beginning July 1, 2027; those with at least 25 employees beginning January 1, 2028; and all employers beginning January 1, 2029. National BLS data indicate that workers at smaller establishments are less likely to have paid sick leave¹⁵, and SBA data identify 157,804 small businesses with employees in Virginia, including 138,373 businesses with 1–19 employees and 19,431 businesses with 20–499 employees. These businesses with fewer than 500
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¹⁴ Virginia Works, “Quarterly Census of Employment and Wages,” <https://virginiaworks.gov/im-an-employer/plan/view-labor-market-information/quarterly-census-of-employment-and-wages/>. Data retrieved using the “Total, All Industries” setting and ownership categories for private industry, state government, and local government. In the first quarter of 2026, Virginia had 315,774 private-industry establishments, 2,967 state-government establishments, and 3,965 local-government establishments, for a total of 322,706 establishments. As the QCEW reports establishments -or individual physical locations - rather than unique employers, this figure may exceed the number of employers affected.

¹⁵ U.S. Bureau of Labor Statistics. *Employee Benefits in the United States, March 2025*, Table 6, Selected Paid Leave Benefits: Access (2025). <https://www.bls.gov/news.release/ebs2.t06.htm>

	employees employ approximately 1.6 million workers, or 45.9% of Virginia employees. ¹⁶ .
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	Implementation of the Paid Sick Leave article through this regulation may result in both direct and indirect costs for covered employers. The extent of those costs will vary depending on an employer's existing leave policies, workforce composition, payroll practices, and administrative systems. Direct costs for employers that do not currently provide paid sick leave include paying for up to 40 hours of paid sick leave per employee. These costs will be modest. On average, employees who are newly covered by paid sick leave laws take slightly less than two additional sick days per year after implementation and, on average, paid sick leave laws would cost a marginal employer an estimated \$214.00 per year for an employee who worked year-round 20 hours a week. Employers that already provide paid sick leave will incur no direct costs or reduced direct costs (if they need to expand their paid leave offerings). Employers may incur additional costs associated with compliance, such as costs associated with reviewing and updating personnel documents and employee handbooks, notifying employees, and training supervisors and human resources personnel. The regulation has been drafted to minimize administrative costs, by giving employers flexibility and clarity in using payroll, recordkeeping, and paid leave administration systems to satisfy the statutory requirements.
Benefits the regulatory change is designed to produce.	By clarifying employer responsibilities and employee rights, the regulation provides greater certainty regarding paid sick leave accrual, use, compensation, notice, recordkeeping, and enforcement. The regulation is intended to promote uniform administration of paid leave benefits, reduce uncertainty for employers and employees, facilitate voluntary compliance, and support consistent enforcement by the Department. Where the statute affords discretion, the regulation provides flexible compliance options designed to reduce unnecessary administrative burdens while ensuring implementation of the General Assembly's statutory requirements.

Alternatives to Regulation

¹⁶ U.S. Small Business Administration, Virginia 2025 Small Business Profile.
https://advocacy.sba.gov/wp-content/uploads/2025/06/Virginia_2025-State-Profile.pdf

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

There are no viable alternatives to regulation, as this regulatory action is mandated through 2026 Acts of Assembly, Chapters 1128 and 1129.

Regulatory Flexibility Analysis

Consistent with § 2.2-4007.1 B of the Code of Virginia, describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

Pursuant to § 40.1-33.6:7(I)(3) of the Code of Virginia and consistent with § 2.2-4007.1 B of the Code of Virginia, the Department considered alternative approaches that would accomplish the objectives of the authorizing statute while minimizing the adverse impact on small businesses. The Department concludes that the proposed regulation represents the least burdensome approach available within the authority granted by the General Assembly while ensuring consistent implementation of the authorizing statute.

Alternative approaches considered include:

1. Less Stringent Compliance and Reporting Requirements

Most substantive employee rights and employer responsibilities in this regulation are established by statute, and thus the agency does not have the authority to amend statutory requirements in regulation. For example, employers may use existing paid sick leave or paid time off policies that meet statutory minimums; establish paper, electronic, or other procedures for requesting leave; distribute required notices electronically; provide leave balances through existing payroll systems or pay statements; and use reasonable methods to calculate hours worked for exempt and fee-for-service employees when those hours are not otherwise recorded. Employers may also designate their 12-month leave year and establish leave-increment policies within statutory limits.

Where the statute affords administrative discretion, the proposed regulation provides employers with multiple flexible methods of compliance designed to reduce administrative burden. For example, employers may satisfy statutory requirements by frontloading paid sick leave at the beginning of the designated year rather than tracking leave accrual throughout the year, which minimizes recordkeeping. The regulation also permits employers to distribute required notices electronically, provide leave balances through existing payroll systems or employee pay statements, and use reasonable methods for calculating hours worked for exempt and fee-for-service employees when hours are not otherwise required to be recorded. Additionally, employers may continue using existing paid time off policies, provided those policies satisfy the minimum statutory requirements.

2. Less Stringent Compliance and Reporting Requirements

The authorizing statute includes a phased implementation schedule based upon employer size. Because these implementation dates are prescribed by statute, the Department lacks authority to establish alternative compliance schedules or delay implementation for small businesses.

3. Alignment with Existing Federal Requirements

Where practicable and consistent with the authorizing statute, the Department aligned the regulation with existing federal requirements to reduce the need for separate compliance systems. For example, the regulation aligns its recordkeeping requirements with employers' existing obligations under the Fair Labor Standards Act.

Periodic Review and Small Business Impact Review Report of Findings

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, indicate whether the regulatory change meets the criteria set out in EO 19 and the ORM procedures, e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable. In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

The Department conducted a small business impact review consistent §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia. The Department determined that the proposed regulation is necessary to implement Chapters 1128 and 1129 of the 2026 Acts of Assembly and establish a clear and consistent framework for administering paid sick leave requirements in Virginia. The Department considered opportunities to minimize impacts on small businesses by incorporating flexible compliance options where permitted by statute, including recognition of equivalent paid leave policies, frontloading of leave, use of existing payroll and recordkeeping systems, electronic notices, and performance-based compliance standards. The regulation has been drafted in plain language and is intended to provide clear guidance to employers and employees while minimizing unnecessary administrative burdens consistent with the requirements and objectives of the authorizing statute.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency's response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

Commenter	Comment	Agency response
Elizabeth Gartner, multi-state employer	Commentor requested that this regulation: provide flexibility for employers who wish to frontload paid time off, rather than providing accrued paid sick leave; allow	DOLI thanks this commentor for sharing their perspective as a multi-state employer. The agency has considered these comments.

	employers to satisfy the statute by providing equivalent, flexible paid time off; to provide additional guidance for multi-state employers. Commentor also highlighted employers' need for prompt notice of needed paid sick leave, discussed employer administrative burdens, and requested that the Department issue explanatory FAQs and examples to promote compliance.	The Proposed Regulation, if adopted, would address several of your comments, including by providing flexibility for employers that frontload paid sick leave and clarifying employees' notice responsibilities. Some issues raised by the comment, such as allowing employers to satisfy the law by providing an equivalent amount of flexible paid time off to employees, are addressed in the statute. As DOLI implements this law, the agency intends to publish additional explanatory FAQs and compliance assistance materials for employers. DOLI will continue to consider these comments while developing those materials, including the commentors' suggestions regarding call-in procedures, partial-day absences, carryover, rehire, front-loading, and model compliance examples.
Anonymous commentor	Commentor requested that DOLI establish a fast complaint investigation process and further clarify statutory deadlines.	DOLI thanks this commentor for submitting a comment. The agency has considered these suggestions and will continue to consider them while developing its process for investigating complaints and enforcing the law. The Proposed Regulation, if adopted, would clarify several statutory definitions. DOLI will also consider whether to clarify additional definitions in future guidance, FAQs, or compliance assistance materials.
Virginia Chamber of Commerce	Commentor shared suggestions related to DOLI's enforcement framework, including suggestions related to § 40.1-33.6:7(D) of the statute. Commentor also requested that these regulations clarify which portions of the law apply to employers who already provide workers with equivalent paid time off, provide examples of acts or omissions that would constitute interference, clarify various provisions of the statute, and provide that DOLI will publish model notices and similar resources for employers. The commentor also asked for additional guidance about the interaction between portions of the paid sick leave statute and the Virginia Human Rights Act. Finally, the commentor asked that the regulations ensure that DOLI's investigative procedures are	DOLI thanks the commentor for sharing comments on behalf of Virginia employers. DOLI has considered the comment and appreciates the Chamber's focus on creating a clear and predictable regulatory framework. The Proposed Regulation, if adopted, would provide that DOLI will not assess civil monetary penalties against an employer that corrects a violation within 15 days. DOLI considered the commentors' suggestions and concluded that 15 days is an appropriate period for the penalty waiver. The Proposed Regulation, if adopted, aligns this period with DOLI's administrative enforcement mechanism. The Department appreciates the Chamber's comments regarding DOLI's investigative and enforcement procedures. The Department will exercise that authority consistent with the statute and all applicable constitutional requirements, which already apply to the agency and thus need not be addressed in these regulations. The Department also notes that the statutory scheme is consistent

	consistent with the Fourth Amendment.	with other longstanding worker protection statutes, which authorize enforcement agencies to enter employer premises and inspect records over the course of an investigation. See, e.g., 29 U.S.C. § 211; 29 U.S.C. § 657. Other issues raised in this comment are addressed by the statute, addressed by existing law, or are more appropriately addressed through DOLI's internal enforcement procedures, or are otherwise beyond the scope of this rulemaking process. The Department will continue to consider the commentor's suggestions while developing compliance assistance materials, developing enforcement procedures, and implementing the law.
Home Care or Personal Care Employers (Jonathan Bolton; Sean Archer; Askylia Lang-Charles; Tashunna McElveen; Amy Jackson; Debby Hardwick; American Retirement Homes / Americare +; Christa Klippen; Caring touch Health Services, LLC)	Commentors requested that the personal care and home care industry be exempted from Virginia's Paid Sick Leave law, citing the costs of providing paid sick leave. Some commentors requested adjustments to Virginia's Medicaid reimbursement rates to provide additional funding for personal care or home care employers.	DOLI thanks the commentors for sharing their comments on behalf of Virginia home care and personal care employers. DOLI has considered their comments, and appreciates the information they provide. The Paid Sick Leave statute applies to all employers who meet the definition provided by § 40.1-33.6:1, including home care and personal care employers. Because coverage is established by law, commentors' requests to be exempt from the scope of this rulemaking. Similarly, because DOLI does not have jurisdiction over Medicaid reimbursement rates, commentors' requests for increased rates are beyond the scope of this rulemaking.
Christina Ponton	"Financial burden."	DOLI has considered this comment. This comment does not provide suggestions relevant to the scope of this rulemaking.
Andy Sullivan	This commentor requested that the regulations require employers to provide paid sick leave in addition to any existing PTO provided by an employer.	DOLI thanks the commentor for sharing their perspective as a Virginia worker. The Paid Sick Leave law allows an employer's existing paid leave or PTO policy to satisfy the statutory requirements when that policy provides sufficient paid leave that may be used for the same purposes and under the same conditions required by the law. Because the General Assembly specifically provided for this approach, DOLI cannot require an additional separate bank of paid sick leave when an employer's existing policy satisfies the statutory requirements.

Virginia Interfaith Center for Public Policy	This commenter wrote in support of the Paid Sick Leave statute's broad coverage and requested that DOLI prioritize a clear, workable enforcement framework. Commentor requested that, in implementing the law, DOLI prioritize community engagement and worker education to ensure that workers understand their rights, hiring bilingual staff, and publishing educational material about workers' paid sick rights. The commenter also had a number of other suggestions for DOLI's enforcement process, including suggestions to: engage with small businesses to promote compliance and provide implementation resources; ensure that workers compensated on a fee-for-service basis have paid sick protections comparable to other workers; and consider employer size in assessing penalties, while assuring that workers who are denied paid sick leave are made whole. The commenter also urged DOLI to clarify that employer size, for purposes of the law's phase-in provision, will count total employees across the United States. Finally, the commenter encouraged COLI to prioritize swift and efficient investigations and administrative procedures, such as prioritizing training for investigators and easy-to-use complaint portals.	DOLI thanks the commenter for sharing the Virginia Interfaith Center for Public Policy's detailed comments and recommendations. DOLI has considered this comment and appreciates VICPP's emphasis on making the Paid Sick Leave program understandable, accessible, adaptable to different workplaces, and efficient for employees and employers. The Proposed Regulation, if adopted, addresses several of the issues raised by this comment, including the commenter's suggestions regarding measuring employer size, notice requirements, and establishing standards through which employees compensated on a fee-for-service basis will accrue paid sick leave in connection with those employees' hours worked. Other issues raised by this comment are governed by the plain text of the statute and therefore are beyond the scope of this regulation. For example, the statute provides that the Paid Sick Leave law will apply to employers of all sizes following an 18-month phase-in period, but that DOLI will consider employer size when assessing civil monetary penalties for violations. Similarly, the statute expressly provides that absence control policies, such as points-based attendance policies, may not count paid sick leave as an absence that will lead to adverse action. DOLI also appreciates VICPP's comments regarding outreach, multilingual resources, employee education, complaint procedures, employer engagement and guidance, and enforcement procedures. As DOLI implements this law, the agency intends to publish additional explanatory FAQs, compliance assistance materials, and establish accessible enforcement and case handling procedures. Although those issues are beyond the scope of this regulation, DOLI will continue to consider the issues raised by this comment as it implements the law.
Ramon Zepeda Ramos	Commentor encouraged DOLI to draft regulations that ensure broad coverage of Virginia employee, including workers compensated on a fee-for-service basis. Commentor also encouraged DOLI to issue educational and compliance assistance materials, such as	DOLI thanks the commenter for sharing their feedback. DOLI has considered this comment. The Proposed Rule, if adopted, provides coverage to workers compensated on a fee-for-service basis in a manner that is consistent with and comparable to other employees.

	detailed FAQs, interpretive guidance, and sample notices.	DOLI appreciates the commentor's suggestion that Virginia provide clear educational resources such as FAQs, posters, interpretive guidance, and sample notices. As implementation moves forward, DOLI will consider a range of resources to help both employees and employers understand their rights and responsibilities.
Virginians Who Support the Paid Sick Leave Act (LaKeisha Cook, Teresa Wilson-Kennedy, Cynthia Kirkwood, Patricia Marlowe, La'Tavia Lowe)	Commentors expressed strong support for Virginia's paid sick leave law, noting that paid sick leave, when implemented, workers can afford to take time off to care for their families, will promote public health, and will promote dignity and respect. Several commentors also shared personal stories of being forced to choose between staying home while sick and losing their income. Some of these commentors requested fair and balanced regulations that will promote access to paid sick leave for everyday workers.	DOLI thanks the commentors for their comments in support of paid sick leave and for emphasizing the importance of making the new protections meaningful and accessible to Virginia workers. DOLI has considered this content and will continue to consider their comments during the implementation process.
Construction Workers (Phillip Petro, Scott Durbin)	Commentors are construction workers who commonly work for multiple contractors during a single year, and are concerned that they will lose accrued paid sick leave upon switching employers.	DOLI thanks the commentors for sharing their experience and concerns. DOLI has considered these comments. While this issue is beyond the scope of this regulation, DOLI will continue to consider this issue during implementation and will review whether additional clarification is possible within the agency's statutory authority.
Emily Yen	Commentor requested that DOLI issue guidance explaining that workers who are employed on an hourly basis are not employees who are paid on a fee-for-service basis, regardless of whether their employer's revenue is derived from a fee-for-service business model. The commentor also highlighted the experience of behavioral support clinicians who do not have employer-provided paid sick leave rights.	DOLI thanks the commentor for their comments and sharing the experience of workers who do not have employer-provided paid sick leave. DOLI has considered this comment. The statute provides that DOLI may establish regulations governing accrual for employees who are "employed and compensated on a fee-for-service basis." Hourly workers are not employed and compensated on a fee-for-service basis, regardless of the nature of an employer's business model. DOLI will also consider whether to further clarify this issue in future guidance, FAQs, or other compliance materials.
Virginia Manufacturers Association	The Virginia Manufacturers Association (VMA)'s comment highlighted suggestions related to:	DOLI thanks the Virginia Manufacturers' Association for their comprehensive recommendations, including recommendations regarding existing PTO

	• Coordination between paid sick and existing employer PTO policies; • Coordination with other laws related to leave, including Virginia's recently-passed paid family and medical leave law and the federal Family and Medical Leave Act; • Administration of family leave; • Notice and documentation requirements; • Incremental use of leave; • Recordkeeping and administrative efficiency; • Employees compensated on a fee-for-service basis; • Enforcement, investigations, and administrative procedures; and Education and implementation resources.	policies, front-loading, coordination with other leave programs, family caregiving relationships, notice and documentation, incremental leave, electronic recordkeeping, fee-for-service employees, enforcement procedures, and educational materials. These recommendations have been considered and DOLI will continue to consider VMA's suggestions as it continues to implement the law. The Proposed Regulation, if adopted, will address several concerns raised in this comment. For example, the Proposed Regulation would minimize employers' new recordkeeping responsibilities by aligning accrual methods and associated administrative obligations with employers existing recordkeeping responsibilities under federal law. As another example, the Proposed Regulation establishes a framework for employees' notice to their employer of their need to take foreseeable paid sick leave, including by permitting employers to establish reasonable advance notice requirements not to exceed seven days and by further clarifying when an employee makes a good-faith effort to provide notice of their need to use paid sick leave. Further, the Proposed Regulation, if adopted, would align with other applicable employer responsibilities to reduce employer confusion and minimize duplicative compliance costs. For example, the Proposed Rule would align the definition of "family member" for purposes of the paid sick leave with the definition of "family member" for purposes of Virginia's paid family and medical leave law. As DOLI implements this law, the agency intends to publish additional explanatory FAQs and compliance assistance materials for employers. Some of the issues raised by VMA will be more effectively addressed through FAQs, job aids, interpretive guidance, or compliance assistance materials. For example, DOLI will publish additional compliance assistance materials, including examples and FAQs, to answer common questions, such as questions related to the interaction between the Paid Sick Leave Act and the Paid Family and Medical Leave Act, employers' ability to provide equivalent paid time off in lieu of or in
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		addition to the sick leave required by state law. Other issues raised by this comment, such as VMA's suggestions related to DOLI's internal investigative procedures, are beyond the scope of this regulation. However, DOLI will continue to consider VMA's comments in developing its internal investigation and enforcement procedures.
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Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

The agency is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to:

Cristin Bernhardt
 Regulatory Coordinator
 Virginia Department of Labor and Industry
 6606 W. Broad Street, Richmond, VA 23230
Email: cristin.bernhardt@doli.virginia.gov
Fax: (804) 786-2376

In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

Table 2: Promulgating New VAC Chapter(s) without Repeal and Replace

New chapter-section number	New requirements to be added to VAC	Other regulations and laws that apply	Change, intent, rationale, and likely impact of new requirements
16VAC15-90	<i>Paid Sick Leave.</i> <i>Establishes a new regulatory chapter to implement the provisions of the Code of Virginia §§ 40.1-33.6:1 through 40.1-33.6:7 regarding paid sick leave. The regulatory chapter provides requirements and administrative guidance for employees and employers concerning coverage, accrual and use of paid sick leave, compensation, leave administration, employee protections, notice and recordkeeping, and enforcement.</i>	<i>Code of Virginia §§ 40.1-33.6:1 through 40.1-33.6:7.</i>	<i>This is a new chapter implementing the paid sick leave requirements enacted by the 2026 Acts of Assembly, Chapters 1128 and 1129. The regulations are intended to provide employers and employees with clear and consistent standards for complying with and administering the paid leave statute and to establish procedures necessary for DOLI to administer and enforce the law.</i>
16VAC15-90-10	Definitions. Defines terms used throughout the chapter to establish a consistent framework for interpreting and administering the paid sick leave requirements.	Code of Virginia §§ 40.1-33.6:1 through 40.1-33.6:7 and other laws incorporated by reference in individual definitions, as applicable.	The section supplements statutory definitions and provides additional clarity regarding terms necessary to administer the statute. The intent is to promote consistent interpretation and application of the paid sick leave requirements by employers, employees, and DOLI. The section is expected to reduce uncertainty regarding regulatory terminology and assist regulated parties in determining their rights and responsibilities.
16VAC15-90-20	General Provisions. Clarifies that the paid leave statute and implementing regulations establish minimum requirements that if any provision of the chapter is held invalid, the remaining provisions and applications continue in effect to the extent they can operate independently.	Code of Virginia §§ 40.1-33.6:1 through 40.1-33.6:7; § 2.2-4004.	This section clarifies the overall operation of the chapter. The language is intended to make clear that the statutory and regulatory requirements establish a floor, rather than a ceiling, and that employers may retain or adopt paid leave policies that provide employees with greater benefits or flexibility. This clarification is particularly useful for employers that already maintain paid sick leave, PTO, or other leave programs that exceed the statute's minimum requirements and helps avoid any misunderstanding that the statute limits those policies.

16VAC15-90-30	Employer Coverage. Clarifies which employers and employees are covered by the statute, including how employer size will be determined during the statute's phased implementation.	Code of Virginia §§ 40.1-33.6:1, 40.1-33.6:2, and 40.1-33.6:4; §§ 40.1-28.7:7 and 58.1-1900, as applicable.	The statute establishes employer coverage and phases implementation according to employer size. This section measures employer size using a standard based on the employer-size standard used in the Virginia Human Rights Act and other state and federal worker protection law. This language also provides workers and employers with greater clarity about employers' existing legal obligations under the authorizing statute, including by clarifying that misclassifying employees as independent contractors in violation of § 40.1-28.7:7 may also lead to liability under the Commonwealth's paid sick leave law. These provisions will likely prevent violations by providing employers with clear notice about a common violation.
16VAC15-90-40	Accrual of Paid Sick Leave. Establishes and clarifies methods by which various covered employees accrue paid sick leave. Provides employers the option to satisfy paid sick leave requirements through frontloading. Explains the statutory requirements around carryover of paid sick leave. Addresses common implementation questions including the statute's application to remote work, fee-for-service employees, separation from or changes to employment, and rounding practices.	Code of Virginia § 40.1-33.6:2; Fair Labor Standards Act, including 29 U.S.C. §§ 201 et seq. and 213(a)(1), as applicable.	The authorizing statute establishes the basic accrual requirement of at least one hour of paid sick leave for every 30 hours worked, subject to the statutory annual requirement. This section provides administrative rules for applying that requirement to common employment arrangements and provides employers with an optional frontloading method. The intent is to ensure employees receive the amount of leave required by statute while providing employers with predictable and administratively workable methods of compliance, some of which employers may already have in place. Notably, this portion of the proposed regulation is designed to minimize employer paperwork burdens while accomplishing the goals of the paid sick leave statute. The proposed regulation does so by providing that employers that frontload paid sick leave will have reduced recordkeeping obligations. Further, the regulation minimizes employers' new recordkeeping responsibilities by aligning accrual methods and associated administrative obligations with employers existing

			recordkeeping responsibilities under federal law. Finally, this section provides that employees who are paid on a fee-for-service basis shall accrue paid sick leave in the same manner as other employees. The intent and likely impact is to promote access to paid sick leave for all covered employees, regardless of the method by which they are compensated. After considering alternatives, the Department believes that the fact that employees are compensated on a fee-for-service basis is not a sufficient reason for those employees to accrue paid sick leave using a different method of accrual. The intent and likely impact is to promote access to paid sick leave for all covered employees, regardless of the method by which they are compensated, to encourage employers to voluntarily frontload 40 hours of paid sick leave, and to minimize employers' new recordkeeping and administrative responsibilities.
16VAC15-90-50	Use of Paid Sick Leave. Establishes procedures governing how employees request and use available paid sick leave. Identifies permissible methods and sufficient content for leave requests. Establishes standards for notice when the need for leave is foreseeable. Permits reasonable employer policies governing increments of leave subject to statutory limitations.	Code of Virginia §§ 40.1-33.6:1 and 40.1-33.6:3; 5 C.F.R. § 551.425 and 29 C.F.R. § 785.43, as applicable.	This section is intended to establish predictable procedures for requesting leave. This section is intended to reduce barriers to using paid sick leave, such as by providing that employees' can request paid sick leave using plain language, rather than specialized terms. This section also is intended to preserve employers' ability to maintain reasonable workplace notice and scheduling policies. This section provides additional guidance for determining when an employee has a familiar relationship with an individual besides a child, grandchild, grandparent, parent, sibling, spouse, or domestic partner of an employee. This provision is intended to ensure that employees are able to take paid sick leave to care for modern families, including people with whom they have a close, familial relationship which is not created by blood or marriage, while

			giving employers reasonable options to implement this portion of the law. In general, this section is intended to promote employees' ability to use paid sick leave guaranteed by the authorizing statute, while ensuring that employees provide employers with sufficient information they need.
16VAC15-90-60	Compensation for Paid Sick Leave. Establishes how employers calculate and pay compensation when an employee uses paid sick leave. Applies the statutory regular-rate requirement to tipped employees, employees working at multiple rates, salaried employees, and employees working shifts of indeterminate duration. Establishes when payment for paid sick leave is due. Clarifies that use of paid sick leave during overtime is compensated at the employee's regular rate rather than overtime rate.	Code of Virginia §§ 40.1-33.6:1 and 40.1-28.10; Virginia Overtime Wage Act; Fair Labor Standards Act and applicable federal regulations governing calculation of the regular rate of pay, including 29 C.F.R. Part 778 and 29 C.F.R. § 531.60.	The authorizing statute requires paid sick leave to be compensated at the employee's regular rate of pay. This section provides greater guidance about how the regular rate requirement applies to certain compensation arrangements, with the goal of providing employers and workers alike with clear guidance, prevention violations, and reducing disputes. Most provisions of this section provide clarifying information, rather than establishing new requirements. The likely effect of this section will be greater compliance.
16VAC15-90-70	Leave Administration. Requires covered employers to maintain a written paid sick leave policy and outlines minimum requirements for that policy.	Code of Virginia §§ 40.1-33.6:1 through 40.1-33.6:6, as applicable; other wage-payment requirements governing deductions from employee wages, as applicable.	The authorizing statute establishes substantive paid sick leave rights and general requirements for employers to communicate and administer those rights. This section is intended to provide greater detail to employers on how to administer and communicate about paid leave to employers, including through a written policy. The intent and likely impact is to promote transparency and consistent administration by requiring employers to document their policies and communicate them to employees. The provisions in this section will expand access to paid sick leave by ensuring that workers have clear, written notice of their rights and any relevant employer policies, such as applicable procedures for requesting leave. The provisions in this section will help ensure that employees and

			employers are aligned on requirements and will help minimize miscommunication or confusion among employees and employers as to how paid leave will operate. This section is also intended to provide employers with flexibility without reducing employees' access to paid sick leave, such as by allowing employers to select a consistent 12-month leave year and by allowing employers to voluntarily advance unaccrued leave.
16VAC15-90-80	Protections Against Retaliation and Interference. Clarifies the statutory prohibitions against retaliation and interference with paid sick leave rights. Defines protected activity and adverse action and provides examples of conduct that may unlawfully discourage, prevent, or interfere with an employee's exercise of rights under the authorizing statute.	Code of Virginia § 40.1-33.6:6 and other applicable state and federal employment laws.	The authorizing statute prohibits employers from retaliating against individuals for exercising protected rights and from interfering with rights provided by the authorizing statute. This section provides workers and employers with additional guidance about the meaning of the authorizing statute's provisions, including conduct that may constitute retaliation or interference. Rather than establishing new legal requirements, the primary intent and likely impact of this section is to provide employers and employees with greater information about the meaning of the anti-retaliation and anti-interference provisions that already apply under the authorizing statute. The section is expected to promote compliance, educate workers and employers, and deter practices that would undermine statutory leave rights.
16VAC15-90-90	Notice and Recordkeeping Requirements. Establishes requirements for informing employees of their paid sick leave rights and maintaining records to demonstrate compliance. Requires employers to maintain specified paid sick leave records for three years subject to identified exceptions and to preserve relevant records while an enforcement	Code of Virginia § 40.1-33.6:5 and other applicable state and federal recordkeeping requirements, including the Fair Labor Standards Act where applicable.	The statute requires the Department to promulgate regulations regarding notice and recordkeeping provisions. This section establishes notice requirements for employers to notify employees of their rights, which are intended to ensure that employees have a clear understanding of their rights and are able to access paid sick leave. The section is also intended to minimize employers' administrative burdens by authorizing employers to use a template form that will be published by the Department for employers to use.

	matter is pending.		This section establishes reasonable recordkeeping requirements that are intended to promote compliance with the paid sick leave act, to minimize new or unnecessary employer recordkeeping obligations, and to promote effective enforcement of the authorizing statute. Additional provisions are intended to align with employers' existing recordkeeping requirements under federal law and further reflect the minimum recordkeeping needed to promote compliance with and enforcement of the authorizing statute. This section will likely promote consistent application and enforcement of the authorizing statute, while minimizing new employer recordkeeping responsibilities.
16VAC15-90-100	Investigations and Enforcement. Establishes procedures for DOLI's investigation and resolution of alleged violations of the authorizing statute. Clarifies that employees are not required to exhaust DOLI's administrative process before pursuing a private action authorized by statute.	Code of Virginia §§ 40.1-33.6:6 and 40.1-33.6:7; Virginia Administrative Process Act and other applicable laws governing agency enforcement and judicial proceedings, as applicable.	The authorizing statute authorizes the Commissioner to investigate and enforce violations and establishes available remedies and penalties. This section explains the framework that DOLI will apply when exercising that authority, including by providing employers with notice and an opportunity to contest agency findings and correct violations where permitted by statute. The intent is to promote compliance with the law, provide procedural clarity to regulated parties, and ensure effective, consistent enforcement of the law when violations do occur. This section also establishes a framework for determining civil monetary penalties that apply to employers who do not comply with their paid sick leave responsibilities. Pursuant to this provision, the Commissioner will consider the gravity of the violation, the size of the business, and other appropriate factors when setting a civil monetary penalty. Further, the Commissioner will not assess civil monetary penalties against an employer who, within 15 days of receiving written

			notice of an alleged violation, corrects the alleged violation. This section is intended to, and likely will have the effect of, promoting swift resolution of cases and relief for employees, while limiting penalties for employers who move quickly to correct violations.
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