

Healthy Workplace, Healthy Families Act of 2014, California's Paid Sick Leave Law, to take Effect

4 min read

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—Starting July 1, 2015, California will join numerous other states in requiring employers provide employees with paid sick leave pursuant to the Health Workplaces, Healthy Families Act of 2014.

Which Employers Must Provide Paid Sick Leave?

The new law applies to all employers who have employees working in California — even small employers with only one employee. Out-of-state employers who have employees working in California must also comply with the new law.

Which Employees Are Eligible For Paid Sick Leave?

All employees — including seasonal, temporary, part-time, full-time, and salaried – are eligible for sick leave if they work thirty or more days in a calendar year. Employees become eligible to start accruing paid sick leave starting on the first day of employment.

The only employees who are not subject to the provisions of the new law are: 1) those which are in union-represented and are covered by a collective bargaining agreement which already provides for paid sick leave and meets other requirements; 2) construction industry employees covered by a collective bargaining agreement which already provides for paid sick leave and meets other requirements; 3) in-home support service providers; and 4) air carrier flight deck or cabin crew members who already receive compensated time off.

Eligible employees are able to start using their accrued paid sick leave days starting on the 90th day of employment.

How Much Paid Sick Leave Do Employees Receive/Accrue?

Employers have two options in terms of figuring out how to provide paid sick leave — the accrual method or the lump sum method.

Under the accrual method, employees accrue paid sick leave at a rate of one hour for every 30 hours worked,

beginning on the first day of work. This amounts to roughly 1.3 hours per week or 5.3 hours per month for those employees who work full-time, 40 hours per week jobs.

Under the lump sum method, the employer simply provides each employee with a minimum of 24 hours of paid sick leave up front, which the employee can start using. The amounts do not carry over from year to year, because the employer provides employees with the lump sum at the start of the new year.

Employers may limit the amount of paid sick leave an employee uses in one year to 24 hours or three days. Employers may also cap accrued hours at 48 hours or six days – meaning that an employee must use some of his or her accrued sick time before accruing anymore. Unused accrued paid sick leave must be carried over to the next year. Employees do not lose it if they do not use it.

Paid sick leave is paid out at the employee's regular hourly wage.

Under What Circumstances Can An Employee Use Paid Sick Leave?

California employees may utilize their paid sick leave benefits for the diagnosis, care, or treatment of an existing health condition, or, for preventative care. Victims of domestic violence, sexual assault, or stalking may also use paid sick leave. The employee may take paid sick leave to care for him or herself, as well as for his or her parents, parents-in-law, grandparents, children, grandchildren, step-children, foster children, siblings, domestic partners, and others.

What Happens To Paid Sick Leave When An Employee Quits Or Is Terminated?

Accrued paid sick leave hours are not considered wages. Therefore, employers are not required to pay out accrued paid sick leave upon employee termination or resignation.

What If Employer Already Has A Paid Sick Leave Policy?

The new paid sick leave provides a floor requirement for the paid sick leave that an employer must provide employees. Employers that already have a paid sick leave policy must ensure their policy meets the minimum requirements of the law, which includes the provisions regarding accrual, carry-over, and use requirements.

What If Employer Already Has A PTO Policy?

The new law establishes a minimum requirement, but an employer can provide sick leave through its own plan or establish different plans for different categories of workers. However, each plan must satisfy the accrual, carryover, and use requirements of the law or put the full amount of leave into the employee's leave bank at the beginning of each year in accordance with the PTO policy. If an employer provides a policy which exceeds the minimum requirements, including providing a specific cap, the policy must be clear as to the additional terms that apply to their employees.

What Are the Notice Requirements?

Employers are required to give employees notice of the paid sick leave policy. This includes updating workplace postings to ensure that employees are notified of their rights under the new law. Additionally, employers must provide written notice of the amount of paid sick leave available to the employee. This can be accomplished by listing the hours on the employees' wage statement, or by providing a separate written notice on payday along with the paychecks.

What Should We Do?

Employers with employees in the state of California should start reviewing their policies and practices now. Determine whether current policies offer the same or better benefits than those required by the new law, and, to the extent necessary, consider whether handbooks, training materials, policy manuals, etc. need to be modified or updated to reflect the new law. Hinshaw attorneys in California are able to assist you in this process.

For further information and assistance, contact your Hinshaw employment attorney.

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