

The 12 Days of California Labor and Employment Series – Day 1 “Expansion of Paid Sick Leave”

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The end of something is always the beginning of something else. That always rings true for years end and new employment laws. It is time, once again, for all employers to sit down, buckle up, and get ready for the 2024 employment law updates and changes.

For the first year in many, COVID has dropped off the radar regarding new or changing employment laws. Workplace violence, arbitration, and cannabis are on the 2024 radar.

Before we pop the champagne and say goodbye to 2023, it is time to reprise our annual review of key California labor and employment law developments. In the spirit of the season, we are using our “12 Days of California Labor and Employment” blog series to address new California laws and their impact on employers. So, on the first day of the holidays, my labor and employment attorney gave to me a partridge in a pear tree and SB 616.

Expansion of Paid Sick Leave Requirements

As of January 1, 2015, the California Healthy Workplaces, Healthy Families Act of 2014 was enacted, requiring employers to provide mandatory sick leave to qualified employees.

Employers needed to give employees at least 24 hours or three days off each year of paid sick leave (including full-time, part-time, or temporary) if they met the following qualifications:

- 30 days of employment within a year for the same employer (with a few exceptions) and



- Satisfy a 90-day employment period before taking any paid sick leave.

An employee is allowed to use sick leave to:

- Recover from physical/mental illness or injury;
- To seek medical diagnosis, treatment, or preventative care; or
- To care for a family member who is ill or needs medical diagnosis, treatment, or preventative care.

Employees are also allowed to take this leave without providing a doctor's note or providing any details to the employer. Current law provides two ways for the employer to provide sick leave. Paid sick leave can be front-loaded or earned via an accrual method.

Suppose an employer chooses to front-load the requisite time. In that case, the employer makes the total amount of sick leave for the year (24 hours) available immediately at the beginning of a year-long period, except for initial hires, where it must be available for use by the 120th day of employment.

If the accrual process is used, employees must earn at least one hour of paid sick leave for each 30 hours of work. The employer's schedule for the accrual process must result in an employee having at least 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment. Under the accrual method, employees can accrue more than 24 hours. As such, the law allows employers to limit an employee's paid sick leave to 24 hours or three days per year. The law also allows an employer to limit an employee's total accrued paid sick leave to no more than 48 hours or six days. However, an employee can carry over paid sick leave to the following year.

Paid sick leave will be expanded under SB 616 as of January 1, 2024. Employees are now entitled to five days or 40 hours of paid sick leave per year under the frontload method.

If an employer uses the accrual method, an employee continues to accrue one hour for every 30 hours worked but must accrue 24 hours by their 120th day of employment and 40 hours by their 200th day of employment.

An employer may limit an employee's paid sick leave to 40 hours or five days during the year. The cap on accrual increases to 80 hours or ten days of sick leave time. Unused paid sick leave of 40 hours or 5 days will now be allowed.

SB 616 also notes that this law preempts any local ordinance that provides less generous leave requirements.

Lastly, SB 616 allows some protections not previously offered for employees covered by a Collective Bargaining Agreement. If you are an employer with a Collective Bargaining Agreement, you should speak to counsel to ensure you know the specific protections of SB 616.

Conclusion

California employers need to update their policies regarding these paid leave changes and ensure the necessary steps are taken to comply with the additional leave. An employer should confirm their payroll department and/or payroll service provider are aware of the increased leave requirements.

Human resources must be trained and informed so that all paid sick leave is documented accordingly. For the employers that front load and use January 1 as their start date, you must place 40 hours or five days into an employee's sick leave back as of January 1, 2024.

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