



Bill Mandating Paid Sick Leave Signed By Governor

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Governor Edmund G. Brown Jr. just signed the Healthy Workplaces, Healthy Families Act of 2014, which takes effect on July 1, 2015. The new law requires nearly every employer in California to provide any employee who has worked in California for 30 days with paid sick leave, at an accrual rate of one hour for every 30 hours worked. Employers may cap available paid sick leave at 3 (8-hour) days per year and total accrual of paid sick days at six (8-hour work) days. Employees can begin to use their accrued sick leave on the 90th day of their employment. Employees may decide the amount of leave they need to use, although employers may set a reasonable minimum increment of two hours. Accrued, but unused, sick days must carry over into the following year subject to the 48 hour/six-day accrual cap.

Paid sick days may be used for the diagnosis, care, or treatment of an existing health condition for, or the preventive care of an employee, or an employee's immediate family member. Covered family members include spouses, registered domestic partners, children (regardless of age), parents (including step-parents and parents-in-law), grandparents, and siblings. Paid sick days are also available for employees who are the victims of domestic violence, sexual assault, or stalking. Employees must provide reasonable advance notification of their need to use the leave as soon as practicable. The law specifically permits these requests to be made orally or in writing.

Employees are not entitled to be paid for accrued but unused sick days upon resignation or termination of employment. However, if the employee is rehired within a year of his/her separation, the employer must reinstate any unused sick leave that was previously accrued.

Employers must provide employees with written notice of their available amount of paid sick leave or PTO leave provided in lieu of sick leave. This notice must be either on the employee's itemized wage statement or in a separate writing provided on the employee's pay date at the time wages are paid. Employers must also record and retain employee usage and accrual for at least three years. These records must be made

available for employee inspection within 21 days of a written or oral request. If an employer fails to keep adequate records, it will be presumed that the affected employee is entitled to the maximum number of accruable hours under the law. At the time of hiring, new employees must be provided, as part of the Wage Theft Prevention Act notice, notice of their entitlement to paid sick leave and their right to file a complaint with the Labor Commissioner where violations occur. Employers will also be required to post a workplace notice from the Labor Commissioner regarding this new law.

Under current state law, employers are not required to provide employees with paid sick days. While many employers voluntarily offer sick leave for full-time employees, business groups argue that expanding the mandate to temporary, seasonal and part-time employees will create a huge burden on employers. In addition, the bill threatens employers with statutory penalties and litigation under the state's Private Attorney General Act for alleged violations. The bill was initially considered a job killer bill by the California Chamber of Commerce.

Employers with existing sick leave or paid time off (PTO) policies do not have to provide additional leave, as long as their policies satisfy the requirements of this new law. Of course, compliance with local requirements such as in San Francisco must also be met. In other words, employers are to provide no less than what the applicable governing law requires.

Advocates, including bill author Assemblywoman Lorena Gonzalez (D-San Diego), claim that the lack of paid sick days in California is a public health hazard, as it forces sick workers to report to work and send their sick children to school. The measure thus will prevent the spread of disease. The bill's sponsors further argue that the bill is necessary to ensure that workers can take time off to care for themselves or a sick loved one without worrying about losing pay or being fired.

With the Governor's signature, California became only the second state in the nation to require employers to provide paid sick leave.

Best practices:

- Review and update sick leave and record-retention policies
- Review and update handbook
- Review wage statements to comply with new notice requirements
- Communicate any policy changes to employees
- Post workplace notice