



Spring 2015

IMPLEMENTING PAID SICK LEAVE

July 1, 2015 (the effective date for the Healthy Family Healthy Workplace Act of 2014) is fast approaching and ALL California employers (with very limited exceptions) must be prepared to provide paid sick leave to ALL employees. Prior to the passage of this law paid sick leave was a discretionary benefit. Although employers can continue to provide paid sick leave that exceeds the requirements of the law, the basic requirements must be met for all employees.

Basic Requirement

All employees must be allowed to use up to three (3) paid sick days (or 24 hours) per year. Accrued sick leave can carry over to the next year, but the maximum required accrual is six (6) days.

Accrual

ALL employees must accrue paid sick leave as of the first day of employment, although the employer does not have to allow employees to use it until the 90th day of employment.

[**Caution #1:** Many employers currently provide paid sick leave only to full-time or administrative employees. Make sure that your policy now provides paid sick leave for all employees – at least for the paid days required by the statute.]

[**Caution #2:** Many employers with paid sick leave policies do not allow for the accrual or granting of paid sick time until the employee has completed an introductory period. Your policy may need to be revised accordingly.]

Employees must accrue one hour of sick leave for every 30 hours worked. However, if the employer gives the employee three (3) paid sick days at the beginning of the year – referred to as “front loading” – the employer does not have to allow a carryover to the following year. The law also states that employers with a Paid Time Off (PTO) benefit that meets or exceeds the new law’s requirement need not offer any additional paid sick leave.

[**Caution #3:** Even if your employees accrue PTO of six (6) days or more per year, the requirements may not be met. The employee must still accrue one (1) hour for every thirty (30) worked. This will only be the case if, based on a 40-hour work week, the employee accrues 69.33 hours (approximately 8.66 eight-hour days) per year. However, the employer can just accelerate the accrual of PTO to meet the statutory standard so that the employee would accrue the six (6) days earlier in the one-year period. **Caution #4:** Keep in mind that PTO is treated as vacation, even though it can also be used for sick

leave – so the employee must be paid for PTO on termination even though an employer is not required to pay for any paid sick leave balance on termination.]

Use

The employer can limit an employee’s use of paid sick leave to three (3) days per year, even though the employee may have accrued up to six (6) days. Employees can request paid sick leave verbally or in writing. The time can be used not only for the employee’s own illness or preventive care but also that of the employee’s child, parent, spouse, registered domestic partner, grandparent, grandchild or sibling. It may also be used by an employee who is the victim of domestic violence, sexual assault, or stalking for certain purposes. An employer can require use of paid sick time in minimum increments of not more than two (2) hours. The employer can also require reasonable advance notice if foreseeable, or as soon as possible.

[**Caution #5:** For employers subject to the Family and Medical Leave Act (FMLA) and California Family Rights Act (CFRA) the minimum increment of time allowed under these laws is one (1) hour.]

Notices

The employer must display a new poster outlining the requirements of the law; provide each new employee with a written notice of paid sick leave rights (incorporated in the new version of the LC Section 2810.5 written notice); include the sick leave available on the paycheck stub (or another document issued the same day as the paycheck); and keep records of the amount of sick leave accrued and used for at least three years.

For more information or assistance please contact Jeanne Flaherty.



Jeanne Flaherty is the President and Managing Attorney of Employer's Legal Advisor, Inc., which represents and advises employers on all employment matters. The firm specializes in conducting employment practices compliance reviews and advising employers on day-to-day legal issues in the workplace.