

ARE YOU PREPARED FOR THE TRENDING PAID SICK LEAVE LAWS?

States and localities throughout the United States have been enacting laws which require employers to provide accrued paid sick leave to employees. For instance, California and Washington have enacted paid sick leave laws and so have some localities within each of the aforementioned states. However, as is probably expected in today's legal landscape, these laws are not always consistent from state/locality to state/locality.

A recent example of this trend is the State of New Jersey. Effective October 29, 2018, New Jersey shall follow the lead of numerous other states who have enacted paid sick leave laws by implementing required paid sick leave which **shall apply to all persons or entities who employ employees in New Jersey, regardless of where your company may be located.** Thus, even if your company does not have physical location within New Jersey, your company will be required to comply with the subject law if it has employees which work in the State of New Jersey (i.e. salespeople, remote employees, etc.).

Just as is required under California's, Arizona's and Oregon's laws, applicable employees must accrue one hour of paid sick leave for every 30 hours worked. However, under New Jersey's law, employers are not required to permit employees to use or accrue more than 40 hours of paid sick leave per year. Further, employers are only required to roll over 40 hours of an employee's paid sick leave to the following year or, in the alternative, an employer may pay the employee for the unused time in the final month of the benefit year. Therefore, if an employee rolls over 40 hours from a previous year, s/he could have more than 40 hours in their paid sick leave "bank" the current year, but employers are only required to permit use of 40 of those hours in the given year.

Leave under New Jersey's Paid Sick Leave Law must be permitted in the following circumstances: (1) an employee's own illness or care, (2) an employee's family member's illness or care,



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(3) an employee or family member being a victim of domestic violence, (4) closure of the workplace or place of care of the employee's child by order of a public official, or (5) an employee's need to attend a school-related conference, meeting, function or other event requested or required by the school for the purpose of the child's education or the child's health conditions or disability.

In the event leave is utilized under the Paid Sick Leave Law, employers may require employees to provide seven days' notice if the leave is foreseeable. To this end, employers may prohibit employees from using sick leave that is foreseeable on certain days and employees are required to make an effort to see the business operations are not unnecessarily disrupted due to the leave. For leave that is unforeseeable an employee must give notice as soon as possible.

When employees take leave of three or more consecutive days, employers may request that such leave be supported by reasonable documentation as defined under the Paid Sick Leave Law.

Finally, as is the case with every other state, employers are not permitted to retaliate against employees who requests or uses earned sick leave in accordance with the law.

All employers should be aware that failure to comply with the Paid Sick Leave Law may expose the employer to penalties and unnecessary scrutiny of the Department of Labor. However, the good news for employers, which is similar to just about every other paid sick leave law in the country, is employers can wrap the paid time off under already offered paid vacation or personal days, so long as the employees are permitted to use the time for purposes specified in the Paid Sick Leave Law. However, whether wrapping it into existing paid time off or creating a new policy for paid sick leave, contracts and/or handbooks should be updated to adjust for the change in not only this law, but laws throughout the country to ensure no violations occur and penalties incurred.

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