

# California COVID-19 Supplemental Paid Sick Leave Becomes Law Again

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On February 9, 2022, California Governor Gavin Newsom signed [Senate Bill \(SB\) 114](#) which resurrects COVID-19 Supplemental Paid Sick Leave (SPSL) for 2022.

The following are answers that employers need to their questions regarding the latest edition of California SPSL.

## When does SPSL become effective?

SPSL becomes effective February 19, 2022, 10 days after enactment. However, the statute applies retroactively to January 1, 2022.

## How long will SPSL be in effect?

SPSL requirements will remain in effect until September 30, 2022.

## Which employers are covered?

Employers with more than 25 employees must provide leave under the latest edition of SPSL.

## Which employees are covered?

An employee of a covered employer who is unable to work or telework because of covered reasons. There is no length of service requirement.

## What are the covered reasons for using SPSL?

The following are covered reasons for using SPSL:

1. The covered employee is subject to a quarantine or isolation period related to COVID-19 as defined by an order or guidance of the State Department of Public Health, the federal Centers for Disease Control and Prevention (CDC), or a local public health officer who has jurisdiction over the workplace.
2. The covered employee has been advised by a health care provider to isolate or quarantine due to COVID-19.
3. The covered employee is attending an appointment for themselves or a family member to receive a vaccine or a vaccine booster for protection against COVID-19.
4. The covered employee is experiencing symptoms or caring for a family member experiencing symptoms, related to a COVID-19 vaccine or vaccine booster that prevents the employee from being able to work or telework.
5. The covered employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
6. The covered employee is caring for a family member who is subject to an order or guidance or who has been advised to isolate or quarantine.
7. The covered employee is caring for a child, whose school or place of care is closed or otherwise unavailable for reasons related to COVID-19 on the premises.

#### How many hours of SPSL are employees entitled to take?

A full-time covered employee is entitled to 40 hours of SPSL for the reasons detailed above. A part-time covered employee is entitled to a proportionate number of hours of SPSL based on the type of schedule the employee maintains for the reasons detailed above.

Both full and part-time employees are entitled to an additional amount of time, equal to their allotment for the reasons detailed above if the employee or family member for whom the employee is caring for tests positive for COVID-19 (e.g., full-time employees are entitled to an additional 40 hours). Employers are permitted to require documentation of the positive test to provide leave for this reason.

The maximum amount of SPSL a full-time employee can take during the period from January 1 to September 30, 2022, is 80 hours. If an employee is eligible for exclusion pay under the [Cal/OSHA Emergency Temporary Standard](#), SPSL hours cannot be used to offset any exclusion pay obligation.

#### Are there permitted limitations on the use of SPSL?

While SPSL allows for time off for vaccination, including receiving a booster, employers may limit the leave for symptoms for each vaccination or booster to 3 days or 24 hours unless the employee provides verification from a health care provider that the employee (or their family member) is continuing to experience adverse symptoms.

#### Are employers permitted to request documentation of an employee testing positive for COVID-19?

If an employee requests leave because they tested positive for COVID-19 or to care for a family

member who tested positive for COVID-19, then the employer may request documentation of the positive test.

What type of notice do employers need to provide to employees regarding SPSL?

Employers must provide employees with written notice that sets forth the amount of SPSL the employee has used through the pay period in which it was due on either the employee's itemized wage statement or in a separate writing provided on the designated pay date. The employer shall list zero hours used if a worker has not used any SPSL.

Employers are required to post a notice to be developed by the Labor Commissioner about this new SPSL benefit. If an employer's covered employees do not frequent a workplace, the employer may satisfy this requirement by disseminating the notice through electronic means, such as e-mail.

What is the rate of pay that a non-exempt employee is compensated for SPSL?

Non-exempt employees shall be compensated based on one of the following:

- Calculated in the same manner as the regular rate of pay for the workweek in which the employees uses SPSL.
- Calculated by dividing the total wages, not including overtime premium pay, by the total hours worked, in the full pay periods of the prior 90 days worked.

What is the rate of pay that exempt employees are compensated for SPSL?

SPSL used by an exempt employee shall be paid in the same manner as other forms of paid leave time.

Is there a maximum amount the employer can be required to pay for SPSL?

Yes, an employer shall not be required to pay more than \$511 per day and \$5,110.00 in aggregate to a covered employee.

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