

Supplemental COVID-19 Paid Sick Leave Returns This Week in California: What Employers Need to Know

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Despite the rising clamor to end lockdowns, ease masking requirements, and to “return to normal,” California’s Supplemental Paid Sick Leave returns this week. California employers should immediately familiarize themselves with the new law’s requirements, which take effect Saturday, February 19.

On February 9, 2022, Governor Newsom signed [Senate Bill 114](#) (“SB 114”), bringing back California’s COVID-19 Supplemental Paid Sick Leave for 2022. The newly enacted law, which takes effect on **February 19, 2022**, restores paid sick leave *with a retroactive application back to January 1, 2022*, and remains in effect until **September 30, 2022**. SB 95, California’s previous law, expired on September 30, 2021.

The law requires covered employers provide qualifying employees with up to eighty (80) hours of supplemental paid sick leave for reasons relating to COVID-19. Those reasons are listed below.

Given the retroactive application of the new law, its impending enforcement, and substantive changes (i.e. be careful before repurposing what you used in 2021), employers with workers in California should note the following:

Covered Employers

SB 114 applies to employers with more than twenty-five (25) employees.

Covered Employees

Any employee of a covered employer who is unable to work or telework because of a reason listed by the law (“qualifying reason”) from January 1, 2022 until September 30, 2022. Any employee who

was absent due to COVID between January 1 and February 19, 2022 may request retroactive paid leave under the law, which employers must pay by the next scheduled pay period.

Qualifying Reasons

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 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 prevent the employee from being able to work or telework, subject to certain limitations.
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 a quarantine or isolation order (see #1, above) or who has been advised by a health care provider to isolate or quarantine (see #2, above).
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.

Time Available and Documentation: Generally

Employees may be eligible for up to forty (40) hours for the qualifying reasons described above.

Employees may be eligible for up to an additional forty (40) hours if the employee or family member tests positive for COVID-19. In certain instances, employers may require certifications or other documentation from an employee's healthcare provider or similar persons regarding the employee's need for paid leave for this reason.

For employees who work part-time, COVID-19 supplemental paid sick leave is calculated proportional to employees' schedules or normal hours.

Employers are cautioned to check with counsel before seeking documentation from employees or calculating the amount of leave to which employees are entitled under the law.

Time Available and Documentation: Vaccinations and Boosters

For each vaccination or booster and related recovery time, an employer may limit the total COVID-19 supplemental paid sick leave to three (3) days or twenty-four (24) hours unless the employee

provides verification from a health care provider that the covered employee or their family member is continuing to experience symptoms related to a COVID-19 vaccine or vaccine booster. These limitations include the time used to get the vaccine or vaccine booster.

Payment Details, Legal Updates, Notice Rules, Policy Requirements, and What About Those Local Laws?

SB 114 includes a number of other new rules and details about notice requirements for employers, the caps and calculations for paid leave. It also creates new questions about how the updated leave law interfaces with [Cal/OSHA's ongoing Emergency Temporary Standards](#), local laws that continue to provide for separate paid leave, and shifting federal requirements.

Employers with workers in California should promptly ensure they are in compliance with California's new supplemental COVID-19 paid sick leave requirements, and work with counsel to address any and all details in the new law.

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