

Gov. Newsom Extends California COVID-19 Supplemental Paid Sick Leave Through December 31, 2022 – and Other COVID-19 Updates (US)

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California Governor Gavin Newsom signed into law several more employment-related bills impacting an employer's obligations relating to COVID-19. Of particular note, Assembly Bill 152 extends California's 2022 COVID-19 Supplemental Paid Sick Leave through December 31, 2022. This means employers with more than 25 employees must continue to provide supplemental paid sick leave to employees for COVID-19 related qualifying reasons. Importantly, AB 152 does not grant additional leave or otherwise create a new leave entitlement. Rather, AB 152 simply pushes back the sunset date for 2022 COVID-19 Supplemental Paid Sick Leave to December 31, 2022, thus extending the time period in which employees can use their existing leave. Consequently, if an employee has already used their 2022 COVID-19 Supplemental Paid Sick Leave earlier in the year, they are not entitled to additional leave under AB 152. AB 152 also establishes a new program for small businesses and nonprofits to provide up to \$50,000 in grants to help bear some of the costs of 2022 COVID-19 SPSL.

AB 152 allows an employer to require an additional COVID-19 test related to the use of SPSL. Previously, employers could require an employee to submit to an employer-provided COVID-19 test on or after the fifth day after the initial test was taken, and to provide documentation of those results. Now, in situations where an employee's second test is positive, employers can require an employee to submit to a third diagnostic test within no less than 24 hours, at no cost to the employee. Employers may deny SPSL to an employee who refuses to submit to this additional COVID-19 testing.

In addition to the above, Gov. Newsom also signed the following pieces of COVID-19 related legislation:

- AB 1751: Extends until January 1, 2024, the Workers' Compensation rebuttable presumption enacted by SB 1159, that an employee's illness or death related to COVID-19 is an occupational injury and therefore eligible for workers' compensation benefits if specified criteria are met. Also extends until January 1, 2024, an employer's reporting requirement to provide information about COVID-19 cases to their workers' compensation claims

administrator.

- AB 2693: Extends until January 1, 2024, the statutory notice rules requiring employers to provide notification to employees of possible exposure to COVID-19. Under prior law Employers who receive notice of potential exposure to COVID-19 must provide written notice of the potential exposure to all employees who were at the worksite, within one business day. In lieu of providing “written” notice as previously required, employers can now choose to “post” the notice of potential exposure – provided they comply with a series of technical, statutory requirements regarding such posting.

The extension of these laws, including California’s COVID-19 SPSL, comes as similar requirements in most other states have expired. That said, employers should ensure they are still in compliance with California’s COVID-19 obligations, including by continuing to provide SPSL to eligible employees in California and reporting on wage statements or contemporaneously provided writings, the amount of SPSL hours than an employee has used.

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