

Significant Paid Sick Leave Increases for California Employers

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California employers must revamp their sick leave policies ahead of the New Year. On October 4, 2023, Governor Newsom signed SB 616 into law, thereby amending the Healthy Workplaces, Healthy Families Act of 2014. The new law goes into effect January 1, 2024.

Previously, the law mandated that employers allow employees to accrue up to 24 hours (or three days) of paid sick leave per year, with an accrual cap of 48 hours. The new law increases the annual accrual to 40 hours (five days), with an accrual cap of 80 hours. Commensurate with this change, the law specifies that employers must provide 24 hours of sick leave by the 120th day of employment and provide an additional 16 hours by the 200th calendar day of employment (for a total of 40 hours).

Previously, the law also allowed employers to limit usage of paid sick leave to 24 hours per year; that limitation has also been increased to 40 hours. Finally, the law previously stated that employers can forgo the accrual and carryover method by frontloading “the full amount” of sick leave on an annual basis.

Many employers choose this “frontloading” method over accrual because it provides administrative ease. “The full amount” was defined as 24 hours and is now 40 hours.

The amended paid sick leave law also expressly preempts any local ordinance inconsistent with the following existing provisions in the law:

- Unused sick leave need not be paid out upon termination of employment;
- Employers must reinstate unused paid sick leave to employees rehired within one year of separation (unless paid sick leave was cashed out);
- An employer may advance paid sick days that have yet to be earned at the employer’s discretion;
- The amount of paid sick leave available must be listed on an itemized wage statement;
- Employees must provide reasonable advance notification for foreseeable paid sick leave, or as soon as practicable if the need for paid sick leave is unforeseeable;
- The calculations for paying paid sick leave are unchanged; and
- Paid sick leave must be paid on the payday for the next regular payroll period after the sick leave was taken.

Additionally, employers that provide paid time off to employees in lieu of paid sick leave continue to be required to provide paid time off that meets or exceeds the requirements of the paid sick leave law to covered employees.

California employers should revise their paid sick leave policies to comport with SB 616. California employers can also take this opportunity to confirm that their policies comply with the handful of

California municipalities whose sick leave laws are still more generous than the State's paid sick leave law (including Los Angeles, San Francisco, San Diego, Emeryville, Berkeley, Santa Monica, and West Hollywood).

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