

Last-Minute Amendments to California's Sick Leave Law

Article By:

Carol R. Freeman

Melinda S. Riechert

Employers should review the amendments, which address some of the challenges for implementing the sick leave law that took effect July 1.

After extensive legislative negotiation, the **California State Legislature** passed urgency amendments on July 13 to address some of the more challenging obstacles for implementing California's new sick leave law (officially known as the Healthy Workplaces, Healthy Families Act of 2014 or AB 1522). These amendments (AB 304) are effective immediately. Although we urge employers to review the [AB 304 amendments](#), we have also highlighted the significant amendments below.

Calculation of Paid Sick Leave

One of the most difficult implementation hurdles for employers is calculating sick leave pay for employees with fluctuating pay rates (e.g., more than one pay rate, commissions, and piece rate). AB 1522 required employers to divide the total pay in full pay periods in the 90 days prior to a sick day by the total hours worked to calculate an hourly rate for paid sick leave. AB 304 establishes alternatives to this 90-day look-back method. First, for nonexempt employees, employers may use the same regular rate used for overtime pay during the workweek that an employee takes sick leave. Second, for exempt employees, employers can use the same rate used for other forms of paid leave.

Alternative Accrual Method

If an employer chose to use the accrual method for calculating the amount of sick leave available to an employee, AB 1522 required that employees accrue paid sick leave at the rate of one hour for every 30 hours worked. The amendments permit employers to use a different accrual method so long as the accrual is on a regular basis and employees have at least 24 hours of accrued sick time or other paid time off by the 120th day of employment each calendar year or other 12-month basis.

Lump-Sum Basis

The amendment retains the right of employers that do not want to use an accrual basis or carry over

sick leave from year to year to use a lump-sum basis so long as the greater of three days or 24 hours are provided at the beginning of each year of employment, calendar year, or 12-month period.

Grandfather Clause for Policies Implemented Prior to January 1, 2015

AB 304 includes a grandfather clause for employers that provided paid sick leave or paid time off/vacation before **January 1, 2015** that used a **different accrual method** than providing one hour per 30 hours worked. An employer's accrual method will be grandfathered in provided that (a) the accrual is on a **regular basis** so an employee (including one hired after January 1, 2015) has no less than one day or eight hours of accrued sick leave or paid time off within three months of employment each calendar year or each 12-month period and (b) the employee was eligible to earn at least three days or 24 hours of sick leave or paid time off within nine months of employment. If an employer modifies the accrual method used in its policy that it had in place before January 1, 2015, the employer will need to comply with any accrual method outlined in the amended law **or** provide the full amount of leave (lump-sum basis) at the beginning of each year of employment, calendar year, or 12-month period. Note that even if an employer's policy is grandfathered in for accrual purposes, the employer still needs to ensure it complies with other significant provisions of the law (e.g., pay calculation, broad definition of family member, notice, and recordkeeping).

“Unlimited” Sick Leave

Employers are required to notify employees of their balance of available paid sick time, either on a paycheck stub or on a separate document accompanying the paycheck or paycheck stub. AB 304 allows employers who maintain “unlimited” sick leave policies to indicate “unlimited” on the relevant document. Notwithstanding this technical change, we urge employers to review any “unlimited” or “unaccrued” policy in light of other implementation issues, such as leave of absences and absenteeism policies.

Sick Leave Balance Reinstatement

AB 304 clarifies that employers need not reinstate paid sick time balances for discharged employees who return within a year **if** an employee was already paid out for that time (e.g., payment of paid time off (PTO) upon termination).

Work for Same Employer for 30 Days

AB 304 clarifies that an employee must work for the **same employer** for at least 30 days within the previous 12 months to be eligible to accrue paid sick leave with that employer.

Recordkeeping

AB 1522 requires that employers keep records of hours worked and sick time accrued and used during the last three years. AB 304 clarifies that, notwithstanding any other provision of the law, an employer is not obligated to inquire into or record the purposes for which an employee uses paid leave or paid time off. This change is particularly helpful for employers who use PTO policies to satisfy AB 1522 requirements. In addition, for employers in the broadcasting and motion picture industries, AB 304 delays the pay statement requirement that pay statements display sick leave balances until January 21, 2016.

Additional Exclusion

In addition to the four narrow exemptions from AB 1522 (e.g., certain collective bargaining agreements), AB 304 also exempts a retired annuitant of a public entity and a worker covered by the Railroad Unemployment Insurance Act.

Compliance Checklist

- Display a poster on paid sick leave.
- Provide written notice to employees with sick leave rights at the time of their hire.
- Make sure policies comply with all the requirements in AB 1522/304.
- Allow eligible employees to use accrued paid sick leave upon reasonable request.
- Make sure your pay stub or a document issued on the same day as the pay stub are compliant.
- Keep records that show how many hours have been earned and used for three years.
- Train managers on nonretaliation and discrimination for using paid sick leave.
- Monitor and comply with local ordinances (e.g., San Francisco, Oakland, and Emeryville).
- Monitor the California Division of Labor Standards Enforcement [website](#) for updates.

Copyright © 2025 by Morgan, Lewis & Bockius LLP. All Rights Reserved.

National Law Review, Volume V, Number 195

Source URL: <https://natlawreview.com/article/last-minute-amendments-to-california-s-sick-leave-law>