

Los Angeles Approves Minimum Wage Increases and Mandates Employers to Provide 48 Hours of Paid Sick Leave

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Employers in the City of Los Angeles will need to review their current minimum wage and paid sick leave policies to ensure they comply with the new City ordinance increasing the minimum wage and extending paid sick leave benefits to employees working in the City.

On June 1, 2016, the Los Angeles City Council voted in favor of requiring employers in the City to provide their employees with 48 hours of paid sick leave, double the mandatory minimum under California's statewide paid sick leave law, and approving future increases of the minimum wage. Ordinance No. 184320 goes into effect on July 1, 2016.

Minimum Wage Increases

Beginning on the dates below, employers with at least 26 employees must provide the following minimum wage rates:

- July 1, 2016: \$10.50/hour
- July 1, 2017: \$12.00/hour
- July 1, 2018: \$13.25/hour
- July 1, 2019: \$14.25/hour
- July 1, 2020: \$15.00/hour

On July 1, 2022, and annually thereafter, the minimum wage will increase based on the Consumer Price Index. Employers with 25 or fewer employees will have an extra year to comply with the increases.

Paid Sick Leave Requirements

Who is covered?

Every employee who, on or after July 1, 2016, works in the City for the same employer for at least 30 days within a year from the commencement of employment is entitled to paid sick leave. The Ordinance defines “employee,” in part, as any individual who in a particular week performs at least two hours of work within the geographic boundaries of the City.

Under the Ordinance, an “employer” is “any person, as defined in Section 18 of the California Labor Code, including a corporate officer or executive, who directly or indirectly or through an agent or any other person, including through the services of a temporary service or staffing agency or similar entity, employs or exercises control over the wages, hours or working conditions of the Employee.” This potentially may make corporate officers and executives individually responsible for providing sick leave.

The Ordinance does not provide any exemption for workers subject to a collective bargaining agreement.

How much sick leave is required and can employers limit the amount used?

Employees will be entitled to take up to 48 hours of sick leave in each year of employment, calendar year, or 12-month period. Like the California state law, employers may choose to provide the entire 48 hours of paid sick leave up front (“grant method”) in each year of employment, calendar year, or 12-month period, or employers may use an accrual method such that sick leave accrues at the rate of one hour for every 30 hours worked. Accrued paid sick leave must carry over to the following year of employment, but may be capped at 72 hours.

Employers who provide an amount of paid leave or paid time off, or provide payment for compensated time off, that is equal to or no less than 48 hours are not required to provide additional time.

When do employees begin to accrue paid sick leave?

Employees accrue paid sick leave on the first day of employment or July 1, 2016, whichever is later.

When can employees start using paid sick leave?

Employees may use paid sick leave beginning on the 90th day of employment or July 1, 2016, whichever is later.

For what reasons can an employee use paid sick leave?

Employees may use paid sick leave for their own medical care and for the medical care of certain covered family members for the same reasons paid sick leave must be provided under state law, *i.e.*, for preventive care or diagnosis, care, or treatment of an existing health condition, or for certain purposes as a victim of domestic violence, sexual assault, or stalking.

In addition to allowing paid sick leave to be used for the care of family members defined under state law, the Ordinance also allows for use of paid sick leave for “any individual related by blood or affinity

whose close association with the employee is the equivalent of a family relationship.”

Can employers set restrictions on the use of paid sick leave?

Employers must provide paid sick leave upon the oral or written request of an employee. Employers may require an employee to provide reasonable documentation of an absence from work for which paid sick leave is or will be used. The state paid sick leave law is silent regarding whether an employer can require documentation regarding absences.

Do employers have to pay out unused, accrued paid leave upon termination?

Employers are not required to pay out earned sick leave upon termination of employment if the earned sick leave is separate and distinct from a paid time off or vacation plan. However, if an employee is rehired within a year from the date of separation, previously used and unused paid sick time must be reinstated.

What are the posting and notice requirements?

Every employer shall post at the workplace or job site the notice published each year by the City informing employees of the current City minimum wage rates, sick time benefits, and of their rights under the Ordinance. The notice must be posted in any language spoken by at least five percent of the employees at the workplace or job site.

Every employer also must provide to employees, at the time this Ordinance becomes effective or at the time of hire, whichever is later, the employer’s name, address, and telephone number in writing.

Implementation and Enforcement

The Office of Wage Standards of the Bureau of Contract Administration (designated the “DAA”) may issue guidelines and rules to implement the law. If the DAA determines that the employer’s established policy is more generous overall, the DAA may allow an employer’s established paid leave or paid time off policy or one which provides payment for compensated time off to remain in place and deemed in compliance with the Ordinance even though it does not meet all of the requirements of the Ordinance.

The Office of Wage Standards of the Bureau of Contract Administration within the Department of Public Works shall be responsible for enforcement of the Ordinance.

Employees may not waive their rights under the Ordinance.

Retaliation

Employers are prohibited from retaliating against employees for requesting or using paid sick leave. Retaliation may include discharge, reduction in compensation, or other forms of discrimination.

Employers with operations in the City of Los Angeles should carefully review the Ordinance, their minimum wage rates, as well as policies and practices related to paid sick leave.

Employers should regularly review their policies and practices with employment counsel to ensure they effectively address specific organizational needs and comply with all applicable laws.

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