

Overview of Paid Sick Leave Laws

Most workers require some time off each year to care for their own and their family members' health and medical needs. At present, no federal law mandates **paid sick leave** for private US employees.

This law covers all employees that have worked 30 days or more in a year. This includes part time, temporary, seasonal or per diem employees.

Employers must do one of the following:

Provide a front-loaded annual grant of 24 hours or 3 days of paid leave at the beginning of each year or 12-month period.

NOTE: For employees who regularly work more than 8 hours a day, they must receive 3 times their regular number of daily work hours at the beginning of the year, so an employee working 10-hour shifts must receive 30 hours (see California DLSE Opinion Letter, August 7, 2015).

Or

- Allow employees to accrue 1 hour of paid leave for every 30 hours worked.
- Provide sick leave that accrues on a regular basis other than 1 hour of leave for every 30 hours worked, so that employees have no less than 24 hours of accrued leave by either the 120th calendar day of employment or in each 12-month period.
- Leave accrues beginning on the later of July 1, 2015 or the employee's first day of employment. Accrual may be capped at 48 hours or 6 days.

Carryover: With the accrual method, unused leave is carried over to the next year, subject to accrual cap. No carryover is required for a front-loaded annual grant.

Leave Usage: Employees can use leave beginning on the 90th day of employment, and after that as accrued. Employers may cap usage at 24 hours or 3 days in each employment year, calendar year or 12-month period. If an employee is rehired within 1 year, accrued unused leave that was not paid out on termination is reinstated and may be used according to same use and accrual provisions in the Act.

Permitted Uses: Employees may use leave for:

- Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or employee's family member, defined as child (regardless of age or dependency, and including biological, adopted, foster, stepchild, legal ward, or in loco parentis), parent or parent of a spouse or domestic partner, spouse, registered domestic partner, grandparent, grandchild, or sibling.

- Specified purposes if the employee is a victim of domestic violence, sexual assault, or stalking.

Effective Date: July 1, 2015, except for notice and posting requirements, which are effective Jan. 1, 2015. Amendments passed on July 13, 2015, became effective immediately. Amendments affecting in-home supportive services providers are effective July 1, 2018

Payout on Termination: Not required.

Additional Provisions:

- Retaliation is prohibited.
- Employers may set reasonable minimum increments (of no more than 2 hours) for use of paid leave.
- Employers must keep records of use and accrual of sick leave for 3 years. Absent records, the employee is presumptively entitled to the full amount accruable leave unless the employer has clear and convincing evidence to the contrary.
- Employers have no obligation to inquire into or record the purposes for which an employee uses sick leave or paid time off.
- Rebuttable presumption of retaliation exists if adverse employment action occurs within 30 days of protected activity.

Penalties: Penalty of up to \$100 per offense for notice posting violation. Labor Commissioner or Attorney General can recover in administrative or civil action:

- Back pay.
- Payment for sick days unlawfully withheld.
- Administrative penalties of the greater of \$250 or 3 times the dollar amount of the paid sick days withheld, with an aggregate penalty cap of \$4,000.
- Penalty of \$50 for each day violation occurred if employee suffered other harm, such as discharge, capped at \$4,000.
- Additional penalties for continued non-compliance.
- Attorneys' fees, costs and interest.