

Effective July 1, 2015, California employers will be required to provide at least three days of paid sick leave each year to most employees, including many temporary and part-time employees under the “Healthy Workplaces, Healthy Families Act of 2014.”

Employees who work 30 days or more in California in a year (including temporary and part-time workers) will be covered by this act. Certain categories of employees are exempted from coverage, including employees with a collective bargaining agreement (provided that the agreement meets certain specifications), construction employees with specific provisions in their collective bargaining agreements, in-home support service providers, and certain air carrier and flight employees. There is no exception for small employers.

Eligible employees will accrue paid sick leave at a rate of one hour of sick leave for every 30 hours worked. For exempt employees, a workweek will be considered to be the lesser of 40 hours or the actual normal workweek. Workers must be allowed to roll accrued sick leave over to the next year, but employers can cap the amount of sick leave accrued at 48 hours and may limit the actual annual use of paid sick leave to a maximum of 24 hours.

Employers may, instead of using the accrual method, opt to provide a lump sum of 24 hours of sick leave at the beginning of each year. Provided that a new bank of 24 hours is immediately available in the new year, sick leave remaining from the end of the prior year from this lump sum bank does not need to carry over from the prior year.

Accrued paid sick time is not required to be paid out at termination unless it is part of a combined paid time off (PTO) plan. If an employee is rehired within a year, however, the previous paid sick leave balance must be restored.

Annual use of paid sick leave may be capped by the employer at 24 work hours or three days. Employees are eligible to begin using their accrued paid sick leave on the 90th day of their employment.

Employers must allow eligible employees to use paid sick leave upon verbal or written request for the diagnosis, care, and treatment of an existing health condition, or as a preventative measure for themselves or for a family member. Paid sick leave may also be used by employees who are the victims of domestic or sexual violence or stalking, or whose family member is a victim of such a crime. Covered family members under this act include children, spouses, registered domestic partners, parents, step-parents, parents-in-law, grandparents, grandchildren, and siblings. Employees can determine how much sick leave to use for a particular instance, though employers may set a minimum increment of not less than two hours per use.

Employers must give a written notice as part of the Wage Theft Prevention Act notice to employees at the time of hire. This notice must detail employees’ rights in accruing, requesting and using paid sick leave without fear of retaliation or termination as well as their right to file complaints and participate in investigations of the employer’s non-compliance without fear of negative actions against them.

Employers must display a poster with similar information beginning January 1, 2015. A written accounting of each employee’s available sick leave must be distributed to the employee every pay day.

Employers must document each employee's accrual and usage of paid sick leave and must retain the records for at least three years. Employers who violate this new law may be liable for civil penalties to the employee as well as the attorney fees and costs of the employee and the Labor Commission.

Additional Information

Prior to July 1, 2015, California does not have a statewide requirement for sick leave, but does require an employer to allow an employee to use up to one-half of accrued sick leave to care for a family member.

Several municipalities, including but not limited to, San Francisco, Oakland, and Long Beach have implemented or plan to implement separate paid sick leave regulations. San Francisco requires employers to give their employees paid sick leave at the rate of one hour for every 30 hours worked after a 3-month introductory period for new hires, with a maximum of 72 hours. Oakland, starting March 2, 2015, will require employers to give their employees paid sick leave at the rate of one hour for every 30 hours worked, up to 72 hours for employers with 10 or more employees and up to 40 hours for employers with under 10 employees.

Caution: If an employer provides sick leave, the employer should ensure that it is provided on a non-discriminatory basis and in accordance with established policy and practice. Also, if an employer provides an employee with an indefinite number of paid sick days on an as-needed basis, it must comply with Kin Care obligations.

Source: HR Answerlink