

PUBLICATION

The Expansion of Laws Governing Paid Sick Leave

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It seems that with every passing day more cities and states adopt ordinances and statutes governing paid sick leave. At present, three states and eighteen cities have enacted laws providing for paid sick leave. The states are Connecticut, California, and Massachusetts, and the cities are as follows: San Francisco, California; Washington, D.C.; Seattle, Washington; Portland, Oregon; New York, New York; Jersey City, Newark, Passaic, East Orange, Paterson, Irvington, Trenton, Montclair, and Bloomfield in New Jersey; Eugene, Oregon; Oakland, California; Tacoma, Washington; and Philadelphia, Pennsylvania.

Given the rate at which the trend is spreading, employers should keep a watchful eye on state and local governing bodies, and this brief overview of California's Healthy Workplaces, Healthy Families Act of 2014, which is representative of a typical paid sick leave law, will give you an idea of what to expect if your state or city jumps on the bandwagon.

To start, California's statute does not apply to employees who do not work in California for thirty or more days in a year. With respect to accrual, employees accrue one hour of paid sick leave for every thirty hours worked. Those accrued hours carry over from year to year and accrual cannot be capped until an employee has banked six days of paid sick leave. Luckily, California gives employers an easy alternative to accrual and carry over: give every employee three days of paid sick leave at the beginning of every year.

Use of paid sick leave is subject to certain restrictions as well. Employers are not required to approve more than three paid sick days in a single year. Subject to the limitations outlined above, upon the oral or written request of an employee, an employer must provide paid sick days for (i) diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member or (ii) an employee who is a victim of domestic violence, sexual assault, or stalking.

The law also requires employers to keep records of sick leave accrued and/or paid for a period of three years and to give employees an itemized wage statement showing sick days accrued and/or paid during the pay period. An employer must provide payment for sick leave taken by an employee no later than the payday for the next regular payroll period after the sick leave was taken, but employers are not required to pay accrued sick leave upon termination.

The paid sick leave law outlined above serves as an example of the legislative trend toward requiring sick leave.