

## Employment & Labor Law Alert

November 2023

# New California Law Expands Employee Paid Sick Leave Entitlement

Gov. Gavin Newsom signed Senate Bill 616, which entitles employees to more sick days. According to Newsom, "Too many folks are still having to choose between skipping a day's pay and taking care of themselves or their family members when they get sick."

Effective Jan. 1, 2024, employers of all sizes are required to provide employees 40 hours or five days of accrued sick leave or paid time off in each year of employment, calendar year or 12-month period, which is up from 24 hours or three days. This includes full-time, part-time and temporary workers who both:

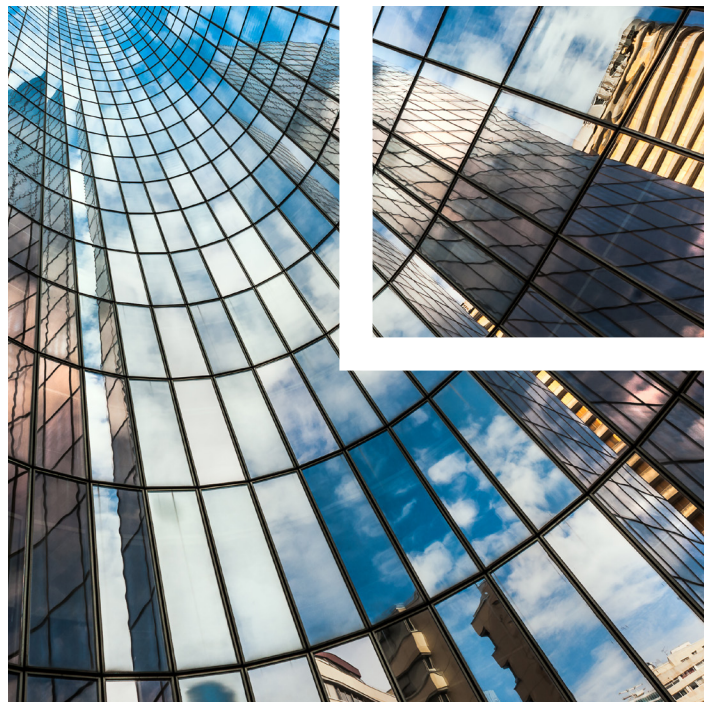
- Work for the same employer for at least 30 days within a year in California.
- Complete a 90-day employment period before taking any paid sick leave.

Upon the oral or written request of an employee, the employer shall provide paid sick days for the following purposes:

- Diagnosis, care or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member.
- For an employee who is a victim of domestic violence, sexual assault or stalking.

Other important aspects to understand with the passage of this new law:

- **Rate of Accrual:** An employee shall still accrue paid sick days at the rate of not less than one hour per every 30 hours worked, beginning at the commencement of employment.
  - An employer may use a different accrual method, provided that the accrual is on a regular basis so that an employee has no less than 24 hours of



accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period, and no less than 40 hours of accrued sick leave or paid time off by the 200th calendar day of employment or each calendar year, or in each 12-month period.

- **Employee Use Limits:** An employer may limit an employee's use of accrued paid sick days to 40 hours or five days in each year of employment, calendar year or 12-month period.
- **Carryover:** Accrued paid sick days shall carry over to the following year of employment.
- **Maximum Accrual Cap:** An employer may limit an employee's total accrual of paid sick leave at 80 hours or 10 days, which is up from 48 hours or 6 days.
- **Minimum Increments:** An employee may determine how much paid sick leave they need to use, provided that an employer may set a reasonable minimum increment, not to exceed two hours.
- **Front-loading:** For employers who front-load their paid sick days, no accrual or carryover is required if the full amount of leave is received at the beginning of

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each year of employment, calendar year or 12-month period. The term “full amount of leave” means five days or 40 hours.

**Action Items for California Employers:**

- Review and revise their paid sick leave policies, including those in employee handbooks and training and onboarding materials, to conform with the new paid sick leave requirements and accrual and usage caps.
- Adjust company payroll to confirm that the system is correctly capturing the new paid sick leave policies going forward to ensure they are accurately providing employees with written notice that sets forth the amount of paid sick leave available or paid time off leave an employer provides in lieu of sick leave, for use on either the employee’s itemized wage statement or in a separate writing provided on the designated pay date with the employee’s payment of wages. If an employer provides unlimited paid sick leave or unlimited paid time off to an employee, the employer may indicate on the notice or the employee’s itemized wage statement “unlimited.”

- Educate all necessary personnel on these new changes.
- Review all local paid sick leave laws, since this bill will preempt any local ordinances to the contrary.

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