

Connecticut First In Nation to Require Paid Sick Leave

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Effective January 1, 2012, Connecticut will become the first state to require paid sick leave. Under the law, most employers of 50 or more employees within the state must provide their “service workers” at least 40 hours of paid sick leave each calendar year. Employers excluded from the Act include manufacturers and nationally chartered organizations exempt from taxation under section 501(c)(3) of the tax code. Covered employers must also comply with new informational and anti-retaliation requirements.

“Service Workers” are hourly paid employees, or those exempt from the minimum wage and overtime provisions of the Fair Labor Standards Act, who primarily work in specifically defined occupational codes defined in the Act. Generally, non exempt employees engaged in health services, food services, security, hospitality, retail, child care, administration, and information technology will be covered. Day or temporary workers are not considered “service workers.” Part-timers are.

Covered employers must allow their “service workers” to accrue one (1) hour of paid sick leave for each forty (40) hours worked, to a maximum of forty (40) hours per calendar year. Further, employers must permit accrued hours not taken to be carried over into the following calendar year, but no more than 40 hours of paid leave off must be provided in any given calendar year. In addition, an employee must complete 680 hours of service before being able to take accrued sick leave, unless agreed to by the employer, and must have also averaged at least

10 hours of work per week in the most recent calendar quarter. Accrued, but unused sick leave need not be paid out upon termination, regardless of the reason for separation.

Sick Leave can be taken for the service worker's own illness, injury, health condition, medical diagnosis, treatment, or preventative care, as well as that of a child's, or spouse's. Also, if the service worker is a victim of family violence or sexual assault they are permitted time off for medical care, to obtain victim services, relocate, or participate in legal proceedings related to the violence. In lieu of taking sick time off, the company and employee may agree to permit the employee to work additional hours, in the same or subsequent pay period, equal to the number of hours absent, without reducing the employee's sick leave bank. Employers may also permit employees to donate unused accrued time to another employee.

Notice of up to seven (7) days is required, if foreseeable, and if not then notice must be given as soon as practicable. Employers may require appropriate documentation for leaves of three (3) or more consecutive days.

Employers who already offer paid time off for the purposes outlined in the Act, which accrues at the same rate and is at least equal to that required by the Act, need not provide additional sick leave by virtue of the new law.

New employees must be provided notice of their entitlement to sick leave, the amount of leave they are eligible for, and the terms under which the leave may be used. They must also be informed of the anti-retaliation provisions of the Act and the right to file a complaint with the Labor Commissioner. Notices must be provided in English and Spanish.

Covered employers may not discriminate or retaliate against any employee, not just "service workers," for taking sick leave, including leave permitted by policy, or for filing a complaint with the Labor Department. Civil fines of \$100 per violation may be assessed where

employees are not given their statutory rights, and \$500 for retaliatory conduct. In addition, employees are entitled to make whole relief for any violations.

Employers should begin reviewing their current leave, PTO, and attendance policies now to insure they will comply with the new law. This includes changes to any handbook provisions that may be applicable, such as minimum increments of time off, medical documentation requirements, notice requirements, carryover rights, or attendance policy disciplinary provisions.

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