



Compliance Bulletin

California Mandates Paid Sick Leave for Employees

Provided by Signature Insurance Group

Quick Facts

- Effective July 1, 2015, most California employers will be required to provide paid sick leave days to employees who work 30 or more days per year.
- The new law applies to part-time and temporary workers, as well as full-time employees.
- Employees are entitled to use paid sick days beginning on their 90th day of employment.
- Employers may limit an employee's paid sick leave to 24 hours (or three workdays) per year.

Beginning on July 1, 2015, employers will be required to provide eligible employees with **24 hours (or three workdays)** of paid sick leave per year.

On Sept. 10, 2014, California Governor Jerry Brown signed into law the **Healthy Workplaces, Healthy Families Act of 2014** (Act). The Act will require employers to provide paid sick days to employees who work 30 or more days in a calendar year, beginning on **July 1, 2015**.

The Act makes California the second state in the nation to mandate paid sick leave, and will expand sick leave benefits to an estimated 6.5 million workers.

Covered Employers and Employees

The Act is notable for its broad scope. In general, **all California employers** must comply. This means that unlike other employee leave laws, small employers are not excluded from the Act's requirements. Additionally, the Act requires employers to provide paid sick leave to part-time and temporary workers, not just full-time employees.

However, if a collective bargaining agreement that meets certain leave requirements is in place, an employer may be exempt from providing paid sick leave days under the Act. Additional exemptions are also included for providers of in-home support services and

individuals who are covered by the federal Railway Labor Act.

Leave Requirements

Beginning on July 1, 2015, employers will be required to provide eligible employees with **24 hours (or three workdays)** of paid sick leave per year. Employees may use this leave to obtain:

- Preventive care; or
- Diagnosis, care or treatment of an existing health condition of the employee or a family member.

The Act also requires paid sick leave to be provided to employees who are victims of domestic violence, sexual assault or stalking.

The Act defines a "family member" as a child, parent, spouse, registered domestic partner, grandparent, grandchild or sibling. Employers should take note of this definition, which goes beyond the definitions in place for leave under the federal Family and Medical Leave Act (FLMA) and the California Family Rights Act (CFRA). Accordingly, situations may arise in which employees may now be entitled to paid sick leave under the Act that is not chargeable to their FLMA or CFRA leave.



Eligibility Requirements

To be eligible for paid sick leave, an employee must work in California for 30 or more days within a year from the start of their date of employment. Eligible employees may use accrued sick days beginning on their **90th day of employment**.

Accrual and Carry-over of Sick Leave

Once the Act takes effect, eligible employees will accrue paid sick days at a rate of at least **one hour for every 30 hours worked**.

An employer is not required to allow an employee to accrue more than a total of 48 hours (or six workdays) of paid sick leave, assuming that an employee's rights to accrue and use paid sick leave are not otherwise limited. However, the Act explicitly states that its requirements only establish minimum standards. Employers may offer equivalent or more generous paid sick leave policies.

While employees are allowed to carry-over accrued sick days from year to year, employers may limit an employee's use of paid sick days to 24 hours (or three workdays) per year. No carry-over is required if an employer provides its employees with at least three days of paid sick leave at the beginning of the year.

Termination and Rehiring

Upon termination, resignation, retirement or other separation from employment, employers are not required to compensate employees for unused paid sick days earned under the Act.

However, if an employee separates from employment and is then rehired by the same employer within one year, the employer must **reinstate the employee's previously accrued and unused paid sick days**. Employees who are rehired within one year are not subject to the Act's 90-day waiting period, and may use their paid sick leave immediately upon rehire.

Impact on Existing Paid Leave Policies

If an employer's existing paid leave or paid time off policy meets the Act's requirements, employers are not required to provide

additional paid sick days. However, the employer's policy must provide at least **three days of paid sick leave** (or equivalent paid time off) that can be used in the same way as the leave granted by the Act.

Employer Obligations

Going forward, employers need to take appropriate action to comply with the Act's administrative burdens. These administrative requirements include:

- **Notice:** Employers must provide employees with written notice informing them of the amount of paid sick leave available for use on either the employee's wage statement or a separate document provided on the date wages are paid.
- **Workplace Posters:** Employers must display a poster that informs employees of their paid sick leave rights in a conspicuous location at each workplace. The California Labor Commissioner will create and make available a poster that contains the relevant information to satisfy the Act. Employers that willfully violate this requirement will be fined \$100 for each violation.
- **Recordkeeping:** Employers must maintain records documenting the hours worked and paid sick days accrued and used by each employee for **at least three years**. These records must be made available to the California Labor Commission and employees for inspection.

Discrimination and Retaliation Prohibited

Employers are prohibited from discriminating or retaliating against employees who:

- Use (or attempt to use) accrued sick days;
- File a complaint with the Commissioner;
- Cooperate in an investigation or prosecution of an alleged violation of the Act; or
- Oppose a policy prohibited by the Act.



Employers are presumed to have engaged in unlawful retaliation if the employer denies the right to use sick days, discharges, threatens to discharge, demotes, suspends or otherwise discriminates against an employee within 30 days of any of the following actions by the employee:

- Filing a complaint with the Labor Commission or alleging a violation of the Act;
- Cooperating with the investigation or prosecution of an alleged violation of the Act; or
- Opposing an employer's policy, practice or action that is prohibited under the Act.

Enforcement and Penalties

The Commissioner enforces the Act's provisions. If the Commissioner determines that an employer has violated the Act, it may order appropriate relief, including:

- Reinstatement of a discharged employee;
- Back pay;
- Payment of withheld sick days; and
- Administrative penalties ranging from \$50 to \$4,000.

In addition, the Commissioner and the California Attorney General may bring civil lawsuits in order to recover specified penalties, attorney's fees, costs and interest against employers who violate the Act.

Impact on Employers

In light of this new law, employers should review their existing employee leave policies to determine whether they comply with the Act. Even employers that already provide paid sick leave may have to alter their existing policies. In particular, employers should take note of the Act's administrative requirements and the circumstances for which they are required to allow employees to take paid sick leave.

