Paid Sick Leave – Healthy Workplace Healthy Families Act - AB 1522

Beginning on July 1, 2015, ALL employees working in California who work at least 30 days within a year are eligible for paid sick leave. Exceptions include some employees in the airline industry and unions. Within seven days of implementing your new paid sick leave policy, you must provide notice to your employees, with paid sick leave information. This makes July 8, 2015, the final date (July 1, 2015 operative accrual date + 7 days) that notice could be provided. The law is silent regarding medical certification. We recommend employers not require a doctor’s note when an employee is using paid sick leave. You may not count paid sick leave absences against the employee’s attendance. This may require a change in your printed policy. Employers can choose from the options below or choose a combination of the three options depending on employee classification.

<table>
<thead>
<tr>
<th>Option 1- Accrual</th>
<th>Option 2- Lump Sum</th>
<th>Option 3- PTO</th>
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</thead>
<tbody>
<tr>
<td>Employees accrue sick leave from the commencement of employment at a rate of one hour for every 30 hours worked, up to a maximum of 48 hours. Exempt employees’ paid sick leave accrual will be based on a 40-hour workweek.</td>
<td>Immediately upon hire or July 1, 2015, whichever is later, employees are eligible for 24 hours of paid sick leave. Thereafter, they will receive an additional 24 hours of sick leave each year</td>
<td>Use the Company’s paid time off policy, as long as it mirrors or exceeds the accrual, carryover and use requirements in AB 1522, or provides employees with at least 24 hours of paid sick leave each year, regardless of the actual accrual rate.</td>
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<tr>
<td>Not payable at separation Not convertible to cash or payment of any kind</td>
<td>PTO Payable at separation</td>
<td></td>
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<tr>
<td>If an employee is rehired within a year of separation, their accrued unused bank of time off must be reinstated.</td>
<td>The Company must track usage The Company must track accrual &amp; usage</td>
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<tr>
<td><em>Usage</em> does not include: personal time and scheduled vacation terms and conditions.</td>
<td>Usage <em>i</em> includes: personal time off and scheduled vacation terms and conditions.</td>
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<td>Carryover: Can be capped at 48 hours</td>
<td>Balance is reset to 24 hours annually. Carryover not required</td>
<td>Carryover: Can be capped at 1½ times annualized rate of accrual</td>
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<tr>
<td>Payable only for days on which the employee would be scheduled to work</td>
<td></td>
<td>Employer may offer a cash-out policy</td>
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</tbody>
</table>

Paid sick leave (or PTO) will be integrated with California State Disability Insurance (SDI) benefits and/or workers’ compensation insurance benefits in such a way that the total sick leave benefits paid by the Company, and those received from SDI or workers’ compensation insurance, will not exceed 100 percent of an employee’s regular weekly wage based on their regular straight-time hourly rate of pay.
Additional information from the DLSE:

6 Steps to Successful Compliance

1. Display poster on paid sick leave where employees can read it easily. Document policy and share with staff.
2. Provide written notice of paid sick leave information to individual employee at the time of hire.
3. Provide for accrual of one hour of sick leave for 30 hours of work for each eligible employee to use.
4. Allow eligible employees to use accrued paid sick leave upon request or notification.
5. Show how many hours of sick leave an employee has available. This must be on a pay stub or a document issued the same day as a paycheck.
6. Keep records showing how many hours have been earned and used for three years.

Retaliation is Prohibited – Employers are Prohibited from:

- Denying an employee the right to use paid sick leave
- Discharging
- Threatening to discharge
- Demoting
- Suspending
- Or in any manner discriminating against an employee

There is a rebuttable presumption of unlawful retaliation if the employer acts in a manner described above within 30 days of the employee’s request for leave or other protected activity.

An Employee May File a Paid Sick Leave Claim – Against Employers Who:

- Unlawfully withhold payment for use of accrued sick days
- Fail to provide a statement of accrual of sick leave
- Fail to accurately track accrued sick leave
- Require an employee to sue a full-day or half-day absence for any use of sick leave. However, an employer may require a minimum of 2 hours of each use of paid sick leave
- Deny payment for sick leave if the employee fails to provide prior notice for an unforeseen illness
- Require the worker requesting sick leave to find a replacement to cover his scheduled shift or assignment
- Deny sick leave due to a failure to provide details.

Administrative Penalties May Be Awarded

An employee need only assert that the sick leave was for a covered purpose in general terms. An employee may recover:

- An administrative penalty equal to the paid sick leave x 3 or $250 whichever is greater, but in no case greater than an aggregate penalty of $4,000
- The administrative penalty may also include a sum of $50 per day for each day the violation occurred or continued

Additional information may be obtained from visiting the DIR’s site at - [http://www.dir.ca.gov/dlse/ab1522.html](http://www.dir.ca.gov/dlse/ab1522.html)

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