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## Are you in compliance with California's new paid sick leave law?

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Starting July 1, 2015, California employers must allow their eligible employees to accrue at least three paid sick days per year. The new law was signed by California Governor Jerry Brown last September. The law as well as posting requirements became effective January 1, 2015.

Under California's new law, employers regardless of size must allow employees who work at least 30 days per year to earn and take paid sick days. All types of employees — including full-time, part-time, seasonal and temporary — can be covered by the law. Some exceptions apply.

In general, here's how it works: Eligible employees must accrue at least one hour of paid sick leave for every 30 hours worked, paid at the employee's regular rate of pay. Accrual will begin on the first day of employment or July 1, 2015, whichever is later. Unused accrued paid sick leave must carry over to the following year.

However, employers that already provide paid sick leave (or paid time off), subject to certain requirements, need not provide "additional" paid sick days where the existing policy (i) satisfies the new law's accrual, carryover and use requirements; or (ii) provides at least 24 hours or three days of paid sick leave for each year of employment.

An employee may request paid sick leave in writing or verbally. An employee cannot be required to find a replacement as a condition for using paid sick days. Retaliation or discrimination against an employee who requests or uses paid sick leave is prohibited.

An employee can use their accrued sick days for their own, or for a family member, for diagnosis, care or treatment of an existing health condition or preventive care or for specified purposes for an employee who is a victim of domestic violence, sexual assault or stalking.

Employees covered by qualifying collective bargaining agreements, In-Home Supportive services providers, and certain employees of air carriers are not covered by this law.

Unlike accrued vacation, accrued sick time is not paid out to the employee at the time of termination of employment. However, under Labor Code section 247.5 employers are required to meet specific record retention requirements regarding hours worked, sick time accrued and sick time used for all employees covered under this new law for three years.

Employers are encouraged to review the provisions of the law, and the FAQs, on the state website for additional detail and application to special circumstances including seasonal employees and rehires. You can print postings and notices to employees in English, Spanish and Vietnamese.

Beyond the accrual rules, employers are encouraged to ensure they have already met posting and notice requirements and are preparing to meet policy and recordkeeping requirements when the law takes effect July 1, or they risk facing administrative fines and other penalties. Included among the new requirements are the following:

- The Wage Theft Prevention Act of 2011 will now require notices to include new verbiage advising employees of their right to accrue and use paid sick-leave, be free from retaliation, and file a complaint for violations of the law. The Labor Commissioner will make available compliance notices under this section.
- Under Labor Code section 226, employers must provide employees with information detailing the amount of paid sick leave available 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.
- Employers must display a poster notifying employees of their paid sick-leave rights. Willful violation of the posting requirements subjects the employer to a penalty of not more than \$100 per offense.
- Labor Code section 247.5 will require employers to retain, for at least three years, records documenting the hours worked, paid sick days accrued and paid sick days used by each employee. These records may be inspected by an employee or the Labor Commissioner.

Noncompliance can lead to claims filed by employee(s) and class action claims based on any alleged failure to comply with the Healthy Workplace Health Family Act of 2014 (AB 1522). Employers impacted by the new California law may need to update their sick-day policies accordingly and consult with an advisor or attorney if they're unsure how to accommodate the new rules.

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