



UNDERSTANDING THE NEW CONNECTICUT PAID SICK LEAVE LAW

Connecticut Governor Dannel P. Malloy recently signed a bill into law that requires covered employers to provide their employees with *paid sick leave accruing at a rate of one hour per 40 hours worked* (the "Sick Leave Law"), making Connecticut the first state in the nation to mandate paid sick leave. The law is effective January 1, 2012.

The Sick Leave Law – Questions and Answers

Which employers are covered by the Sick Leave Law? Employers in the service industry who employ 50 or more people in Connecticut in any quarter in the previous year.

Are any employers expressly excluded? Yes. The bill excludes manufacturers and nationally chartered nonprofit tax-exempt organizations.

The Sick Leave Law applies only to service workers. What is a "service worker"? An employee who primarily works in one of 68 Standard Occupational Classifications. The full list is available on-line at: www.cga.ct.gov/2011/BA/2011SB-00913-R01-BA.htm. Examples of "service workers" include: food preparation workers, social workers, librarians, nurses, dental assistants and security guards.

Are all service workers covered by the Sick Leave Law? No. The worker must be either: (a) paid on an hourly basis, or (b) subject to the 1938 federal Fair Labor Standards Act's minimum wage and overtime compensation rules. Temporary workers and day laborers are excluded.

When does the sick leave accrual start? Employees hired before January 1, 2012 will begin to accrue sick leave on that date. Employees hired after January 1, 2012 will begin to accrue sick leave on their hiring date.

Are there any limits on the amount of sick leave an employee may accrue? Yes. An employee may not accrue more than 40 hours of sick leave in a calendar year.

When may an employee use accrued sick leave? An employee may not use the leave until the employee has (a) worked at least 680 hours after the benefit starts accruing and (b) worked at least an average of 10 hours a week for the employer during the most recently completed calendar quarter.

Can an employee carry over accrued sick leave to the next year? Yes. An employee may carry over up to 40 hours of sick leave into the next calendar year, but may not use more than 40 hours of leave in any calendar year.

What compensation does an employee receive for the sick leave? Generally, the employee's normal hourly wage unless the requisite statutory minimum wage would be greater.

Can an employer provide a different form of paid leave in lieu of sick leave but still be in compliance with the Sick Leave Law? Yes. The paid leave (e.g., vacation days, personal days) must accrue at least as quickly as the sick leave mandated by the Sick Leave Law and an employee must be able to use the paid leave for the same purposes as sick leave.

Can an employer provide more sick leave than is required under the Sick Leave Law? Yes.

How does the Sick Leave Law impact collective bargaining agreements? The Sick Leave Law does not preempt or override the terms of any collective bargaining agreement signed prior to January 1, 2012.

Can an employee switch shifts or work extra hours in lieu of using the accrued sick leave? Yes, but only if the employer and the service worker mutually agree to the different shifts or extra hours, which must occur during the same or following pay period as the accrued sick leave. Employers may also allow employees to donate any unused sick leave to their co-workers.

May an employer require notice from an employee prior to using the sick leave? Yes. An employer may require that employees give up to 7 days' notice before taking the leave if the leave is foreseeable and provide notice as soon as practicable if the leave is not foreseeable.

Which person(s) may be cared for with the accrued sick leave? The employee, the employee's spouse, and the employee's children.

What are the permitted uses for the accrued sick leave? Accrued sick leave may be used for: (a) an illness/injury/health condition, (b) the medical diagnosis, care, or treatment of an illness/injury/health condition, or (c) preventative medical care. The paid sick leave may also be used when the employee is a victim of family violence or sexual assault for: (1) medical care/counseling for physical injury or disability, (2) services from a victim services organization, (3) relocating, or (4) participation in any civil or criminal legal proceedings.

May an employer require an employee to provide documentation supporting the need to use sick leave time? If the leave is for three or more consecutive days, an employer may require "reasonable documentation" confirming the leave's purpose. For an illness, "reasonable documentation" means documentation signed by the health care provider treating the employee (or their spouse or child) indicating the number of days for the leave. For an employee who is a victim of family violence or sexual assault, "reasonable documentation" means a court record or documentation signed by a victim services volunteer or an employee, an attorney, police officer or counselor involved with the employee.

Must employers notify employees about the Sick Leave Law? Yes. An employer covered by the Sick Leave Law must provide notice to each employee eligible for paid sick leave under the Sick Leave Law at the time of hiring that: (a) the employee is entitled to paid sick leave, the amount provided and the terms of

use, (b) the employer may not retaliate against the employee for requesting or using sick leave, and (c) the employee can file a complaint with the Commissioner of the Department of Labor (the "Commissioner") for any violation. An employer may comply with this notice requirement by displaying a poster with the required information in English and Spanish at the employer's place of business in a conspicuous place that is accessible to employees. The Sick Leave Law authorizes the Commissioner to adopt regulations establishing additional notice requirements.

What happens if an employer violates the Sick Leave Law? The employer may incur a civil penalty of up to \$100 for each violation. The Sick Leave Law also bans employers from retaliating or discriminating against employees who request or use the leave they get under the Sick Leave Law or that the employer voluntarily provides. Employers who violate the retaliation ban may incur a fine of up to \$500 for each violation of the ban. Other sanctions for violating the retaliation ban may include rehiring or payment of back wages.

What happens when an employee who is eligible to accrue sick leave under the Sick Leave Law is terminated? Any termination of an employee's employment, whether voluntary or not, is considered a break in service with that employer. If an employee is rehired after termination, he or she may not utilize/bridge any sick leave time accrued before the termination, but instead will begin accruing sick leave time anew. An employer does not have to pay an employee for unused sick leave upon termination unless otherwise provided by an employer policy or collective bargaining agreement.

If you have any questions concerning the matters addressed in this newsletter, or if you would like assistance in understanding how to integrate the requirements of the Sick Leave Law into your business, please contact Pat Weitzman or Kate Grijns of our firm at (203) 222-0885.