

Expanded Paid Sick Days for California Workers Under New Legislation, by Katherine Catlos, Esq., and Christine Starkie, Esq. 10-25-2023

California employers are facing significant changes to the state's paid sick leave law. This month Governor Gavin Newsom signed Senate Bill No. 616 (SB 616), which guarantees workers at least five paid sick days per year, up from the current three days and also increases the accrual and carryover amounts. The law takes effect January 1, 2024.

Many larger cities in California already offer more than the three days presently required under current state law including Oakland, San Francisco, Santa Monica, and Los Angeles. SB 616 is intended to protect the health and well-being of workers, who may be put in a position where they have to choose "between skipping a day's pay and taking care of themselves or their family members when they get sick," according to the Governor's Office. The legislation amends the Healthy Workplaces, Healthy Families Act of 2014 and would apply to eligible employees who work in California for the same employer for 30 or more days within a year from the commencement of employment.

Key Provisions

Under the new law, California's mandatory minimum Paid Sick Leave (PSL) will increase from 3 days/24 hours to 5 days/40 hours. Employers may continue to use various accrual methods but must ensure that employees have a minimum of 40 hours of accrued PSL by the 200th calendar day of employment or the 200th calendar day of each year. Employers can also satisfy the accrual requirements by providing 24 hours of PSL that is available for the employee to use by the 120th calendar day of employment, and a minimum of 40 hours of PSL by the 200th calendar day of employment.

Employers will also now be required to allow employees to carry over a minimum of 80 hours of accrued PSL from prior years (previously 48 hours). However, no yearly carryover will be required, if the employer provides 40 hours of PSL upfront each year of employment, calendar year, or 12-month period. SB 616 will also apply to in-home supportive service providers (IHSS) and extends certain procedural and anti-retaliation provisions regarding PSL to employees covered by collective bargaining agreements that are otherwise exempt from other provisions of the paid sick leave law.

Employers must provide employees with written notice regarding the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement or in a separate document provided on the designated pay date with the employee's payment of wages. If an employer offers unlimited paid sick leave, it can indicate "unlimited."

Next Steps

Given the pending law, employers should:

- Review your organization's paid sick leave and time off policies and prepare to implement changes to comply with the pending law
- Review/update employee handbooks where applicable to ensure the language reflects the pending statute
- Educate managers, supervisors and other key staff on the pending changes
- Talk to your company's payroll company to make sure payroll practices are in compliance with the new law when it takes effect

Kaufman Dolowich Can Help

If you have questions about SB 616, Kaufman Dolowich's skilled labor and employment attorneys can help with updating policies, practices and procedures to ensure compliance.