

Vermont Becomes Fifth State to Pass Paid Sick Leave Legislation

A new Vermont law will require most employers to provide paid sick time to employees. On March 9, 2016, Vermont Governor Peter Shumlin signed legislation (H.B. 187) making Vermont the fifth state to enact a statewide paid sick leave law, joining California, Connecticut, Massachusetts, and Oregon. For most Vermont employers, the law takes effect January 1, 2017.

Eligibility

The law applies to any employer doing business in or operating within Vermont. New employers will have one year after hiring their first employee to comply with the law. The law goes into effect on January 1, 2017, for employers with six or more employees. Employers with five or fewer employees, who are employed for an average of at least 30 hours per week, will not be subject to the law until January 1, 2018. Covered employees must be employed for an average of 18 hours or more per week annually in Vermont. The law excludes several categories of workers from the definition of “employee,” including federal employees, certain state employees, and certain short-term employees, among others.

Leave Accrual and Carryover

Beginning January 1, 2017, Vermont employers must allow employees to accrue and use at least 24 hours (or three days) of earned sick time in a 12-month period. Under the new law:

- Employees begin accruing paid sick time when the law takes effect or when the employee begins working, whichever is later.
- Eligible employees will accrue (1) one hour of sick leave for every (52) fifty-two hours worked. Certain full-time employees who are overtime-exempt under the Fair Labor Standards Act [FLSA] accrue paid sick leave based on a 40-hour workweek, subject to the following caps:
 - Between January 1, 2017, and December 31, 2018, employers may limit an employee’s accrual and use of sick time to 24 hours (or 3 days) in a 12-month period.
 - Beginning January 1, 2019, employers may limit an employee’s accrual and use of sick time to 40 hours (or 5 days) in a 12-month period.
- Unless the employer “frontloads” the full amount of available sick time or other paid time off at the beginning of the year, an employee can carry over any unused sick time at the end of the year in which it was accrued, but the employee is not entitled to take more paid sick time than what the law provides in any year.
- On January 1, 2017, eligible employees begin to accrue paid sick time, however, employers may require a one-year waiting period that would not allow employees to use accrued sick time until they have worked for the employer for one year.

What Sick Time Can Be Used for

Eligible employees will be able to use accrued sick time for the following reasons:

- To deal with their own illness or injury.
- To obtain professional diagnostic, preventive, routine, or therapeutic health care.
- To care for a sick or injured parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child, including helping that individual obtain diagnostic, preventive, routine,

or therapeutic health treatment, or accompanying the employee's parent, grandparent, spouse, or parent-in-law to an appointment related to his or her long-term care.

- To arrange for social or legal services or obtain medical care or counseling for the employee or for the employee's parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child, who is a victim of domestic violence, sexual assault, or stalking or who is relocating as the result of domestic violence, sexual assault, or stalking.
- To care for a parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child, because the school or business where that individual is normally located during the employee's workday is closed for public health or safety reasons.

Note: The law does not provide any specific requirements regarding how and when an employee should notify the employer of his or her need to take sick leave. Additionally, the law does not provide any restrictions on policies that require employees to provide reasonable documentation confirming their need to use sick time.

Notice and Recordkeeping Requirements

Once the required notice of the law is published by Vermont's Department of Labor, employers must post it in a place conspicuous to employees. Employers also must notify employees of the provisions of the paid sick leave law upon hire.

Additionally, employers must calculate the amount of sick time an employee has accrued as the leave accrues during each pay period or on a quarterly basis.

Next Steps for Employers

- You must comply with these changes by January 1, 2017.
- You should update your employee handbooks with this new policy:
 - If you have not previously offered sick time to employees, you will be required to do so and should create a new policy to comply with these provisions.
 - If you already provide sick time, review your current policies to make sure they comply with the provisions of the new law.
 - If you already provide all employees with sick or paid time off (PTO) benefits that exceed the requirements of the law, you do not need to implement a new policy, but may need to adjust your policy to allow a carryover to comply with the state regulations.
- You must post the new Paid Sick Leave Employment poster as soon as it is published by the state.
- You are prohibited from taking adverse action (e.g., disciplinary warnings or negative performance evaluations) against your employees for using accrued sick time.
- You should work with your payroll provider to determine how to comply with the recordkeeping provisions; if HR Knowledge is your payroll provider, please contact your Client Account Manager.
- If you are one of our full-service clients, we will work with you to review your current PTO policies or provide you with sample language to ensure they are compliant with these new regulations. If you have any questions about how this new law interacts with your existing policies or affects your business, please contact us at HR@hrknowledge.com.

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