

## **e-Alert: Rhode Island Releases Sick Leave Finalized Regulations**

### **Background**

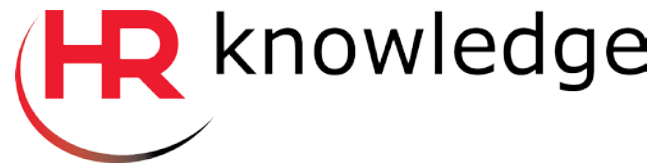
As we previously addressed in an [April 9 e-Alert](#), the Rhode Island Paid Sick Leave program goes into effect on July 1, 2018. The Rhode Island Healthy and Safe Families and Workplaces Act, or “Sick Leave law,” will require employers with 18 or more employees in Rhode Island to allow employees to accrue and use paid sick and safe leave. The Rhode Island Department of Labor and Training has now finalized regulations.

### **Accrual and carryover**

- Eligible employees will begin to accrue paid sick and safe leave on July 1, 2018.
- Employees will be allowed to accrue one hour of sick time for every 35 hours worked; this differs from the more common requirement of one hour for every 30 hours worked in most states with sick leave laws.
- Employees must be allowed to accrue up to 24 hours in 2018, 32 hours in 2019, and 40 hours in subsequent years.
- Employees accrue sick time based on hours paid, not worked; therefore, they accrue sick time while on paid leave (holiday, personal time, sick time, and vacation time); this differs from the sick leave laws in many other states.
- Like the Massachusetts Earned Sick Time Law, employers can provide a monthly lump sum of sick leave, based on the employees’ average hours worked
- Employers can front-load the amount of leave at the beginning of each year, which avoids the need for accrual tracking and carryover provisions.
- Employers with a paid time off (PTO) policy that provides an amount of time equal to, or greater than, the law’s requirements are exempt from the accrual, carryover, and use requirements. For example, if you offer 40 hours of PTO to be used for sick, personal, and vacation time, you do not need to offer additional sick time.

### **Other guidelines**

- Employers can apply a 90-day waiting period for new hires to use sick time. They can also apply a much longer waiting period for seasonal employees (150 days) and for temporary employees (180 days).
- Employees can use leave for themselves, or to care for a family member. Family members include child, grandchild, grandparent, parent (in-law), sibling, spouse, care recipients, and members of the employee’s household.
- Employers can request medical documentation if the employee is absent for three or more consecutive sick days.
- Upon separation of employment, employers are not required to pay out accrued, unused sick time.
- Covered purposes for sick and safe leave:
  - Mental or physical illness, injury, or health condition of an employee or covered relation.
  - Medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition of an employee or covered relation.
  - Preventive medical care for an employee or covered relation.



- Leave related to domestic violence, sexual assault, or stalking impacting an employee or covered relation.
- Closure of the employee's place of business, or a child's school or place of care, by order of a public official due to a public health emergency.

### Some clarification provided

The [finalized regulations](#) have clarified some of the rules:

- Employers must annually calculate the number of employees to determine eligibility, based on the prior calendar year's headcount. They must provide sick and safe leave time if they maintained an average of 18 or more employees in the prior year's two highest quarters of employee headcounts.
- If an employee spends more time working in Rhode Island than any other state, even if it's less than 50% of their work time, they must be counted toward the 18-employee threshold.
- Employees must provide advance notice for a "foreseeable absence," which is defined as at least 24 hours in advance of the absence.
- The rules provide various calculation scenarios for determining the leave pay rate; once an employer selects a calculation model, it must be used for the entire year.

Clarification is still needed for certain parts of the law. For example, how does payout upon termination not being required work for employers using their existing PTO policies which, under Rhode Island law, require payout at the time of separation?

### Next steps for employers

- Update your employee handbooks with these latest changes.
- If you have not previously offered paid 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 regulations.
- If you are one of our full-service clients, we will work with you to review your current policies to ensure they are compliant with these regulations.
- If you are not a current client but are interested in learning more about our services, please [contact us](#).

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