

e-Alert: New Jersey Enacts Paid Sick Leave Law

Background

New Jersey is the tenth state to adopt a paid sick leave law. The new law replaces 13 existing local sick leave ordinances and takes effect on October 29, 2018.

Employers and employees covered

All private businesses that employ workers in New Jersey are covered. Notably, there is no “small business” exception, nor are smaller businesses permitted to provide a lesser amount of leave. Temporary help service firms must provide leave to all employees based on their total time worked on assignments for the firm instead of time worked for specific clients.

All employees in the state will be eligible for leave under the new law, except construction workers covered by a collective bargaining agreement (CBA), per diem healthcare workers, and public employees who already have sick leave benefits. For nonconstruction employees covered by a CBA, the law will not apply until the CBA expires. Further, these employees and their representatives may waive the rights available under the law and address paid leave in collective bargaining.

Unlike the local ordinances the law replaces, there is no minimum number of hours an employee must work to be eligible for leave.

Employees may use leave for their own qualifying need or for that of a “family member,” which is broadly defined to include children, grandchildren, siblings, spouses, domestic partners, civil union partners, parents, and grandparents, as well as any individual “whose close association with the employee is the equivalent of a family relationship.”

For employers that have been subject to one or more local ordinances in New Jersey, the new law will eliminate the various requirements that existed for years. However, because the law applies statewide, many more New Jersey employers will be impacted, along with employers with multi-state or nationwide operations that include the Garden State.

Basic guidelines

- Employers can choose the increments in which its employees may use accrued sick time. However, they cannot require employees to use sick leave in any increment larger than the number of hours they were scheduled to work for that shift. For example, if an employee works a seven-hour shift, the employer cannot require the employee to use paid sick time in increments of eight hours.
- Employers must permit up to 40 leave hours to be carried over from one benefit year to the next. Alternatively, employers using an accrual-based system may give employees the option of receiving compensation for accrued, but unused leave at the end of the benefit year. Employers who “front load” the leave may either allow employees to carry over unused leave or offer them compensation for the unused leave at the end of the benefit year.
- If an employer has a paid time off policy (including personal days, vacation days, sick days, etc.) that provides enough paid time off to comply with the law and allows the time to be used in a manner consistent with the law, it does not need to provide additional earned sick leave. Otherwise, leave



begins to accrue on the law's effective date or when employment begins — whichever is later — at a rate of one hour for every 30 hours worked. Employers are not required to allow employees to accrue more than 40 leave hours in a benefit year (a consecutive 12-month period determined by the employer). As an alternative to accruing leave, employers can front load 40 leave hours on the first day of a benefit year.

- Employers must keep records pertaining to hours worked and leave taken for a period of five years. If an employee complains to the New Jersey Department of Labor and Workforce Development (DOL) and the employer cannot or does not provide adequate records, the DOL will presume that the employer failed to provide required leave.
- Regardless of whether an employee begins employment before, on, or after the law's effective date, leave can be used on the 120th calendar day after employment begins unless an employer permits use earlier. Leave may be used for the following reasons:
 - Diagnosis, care, treatment, recovery, or preventive care of a mental or physical illness;
 - Time taken off if an employee or family member is a victim of domestic or sexual violence, including for counseling, relocation, legal services, or medical attention;
 - Closure of the employee's place of business or a child's place of care due to public health emergency;
 - If a public health authority determines the employee's or a family member's presence in public may jeopardize others' health; and
 - To attend a school conference, meeting, or any event requested or required by a child's educator, or to attend a meeting regarding a child's health or disability.

Mandatory posting and notice

Employers must display a state-created poster informing employees of their rights under the law. They must also provide individual notices to all employees within 30 days of the model notice being issued by the New Jersey DOL and to all new employees when hired.

Next steps for employers

- Start updating your employee handbooks with these new 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 new law.
- 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 this new law.
- If you are not a client but would like to learn more about our services, please [contact us](#).

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