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Action Required: California Expands COVID-19 Supplemental Paid Sick Leave

Background

Employers with more than 500 employees nationally, and employers of healthcare-provider and emergency-responder employees were exempted from Federal Families First Coronavirus Response Act (FFCRA) requirements.

As COVID-19 continues to take its toll nationwide many states have reacted in their own ways to support their residents. On September 9, 2020, California Governor Gavin Newsom signed into law Assembly Bill 1867, the California COVID-19 Supplemental Paid Sick Leave Act, which created new Labor Code §§248 (food service workers) and 248.1 (covered workers) and amended Labor Code §248.5 (paid sick days).

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Summary

Effective immediately, California employers with 500+ employees nationally, and employers of healthcare-provider and emergency responder employees previously exempted from FFCRA requirements, will need to make California supplemental paid sick leave available to all employees, if they have not done so already.

Amount of COVID-19 SPSL

Full-time employees are entitled to two weeks (80 hours) of supplemental paid sick leave, while part-time employees are generally entitled to the total number of hours, they are normally scheduled to work over two weeks.

Covered Employees and Use of COVID-19 SPSL

To be eligible for supplemental paid sick leave, employees **must be required to leave their home to perform their work and must be unable to work because they are:**

- Subject to a federal, state or local quarantine or isolation order related to COVID-19.
- Advised by a healthcare provider to self-quarantine or self-isolate due to concerns related to COVID-19.
- Prohibited from working by the employer due to health concerns related to the potential transmission of COVID-19.

Pay During Leave

The rate at which the employee should be compensated must be equal to or greater than the highest of the employees' regular rate:

- Worker's regular rate of pay for the last pay period;
- State minimum wage; or
- Local minimum wage to which the covered worker is entitled.

Supplemental paid sick leave is capped at \$511 per day and \$5,110 total per employee.

Coordination with Other Leaves

- Employees are entitled to supplemental paid sick leave under the new law *in addition* to any paid sick leave made available to them under an employer's existing non-COVID-related paid sick leave policies.
- Employers are prohibited from requiring an employee to use any other paid or unpaid leave in place of COVID-19 SPSL.
- If a covered employee already receives paid leave that is payable for the reasons listed above and that would compensate the employee in an amount equal to or greater than the amount required for COVID-19 SPSL, the employer may count those hours toward the total number of hours of COVID-19 SPSL. However, the other paid leave may not include

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paid sick leave to which the employee is entitled under paid sick days ([Labor Code Section 246](#)).

Notice Requirements

1. The new and updated posters can be found [here](#) (non-food sector COVID-19 SPSL) and [here](#) (food sector COVID-19 SPSL).
2. The posters must be displayed in a place where employees can easily read them, such as near the timeclock, in a breakroom, or in some other conspicuous place (e.g., where other workplace notices are posted).
 - a. If employees do not regularly work in a physical location, employers must distribute the notices electronically (e.g., through email or company intranet).
3. Employers must also inform employees on the amount of COVID-19 SPSL they have available, either through an itemized wage statement or a separate notice provided each pay period.

Employer Next Steps

- If you are an employer with employees in California covered by the COVID-19 SPSL requirements review your existing leave policies to see if you need to make any changes to meet these additional requirements.
 - If you are a Full-Service or Virtual HR client, we can advise you as to whether your current policies meet these requirements.
- If you are a Managed Payroll client and you wish to display the amount of available COVID-19 SPSL on employee pay statements, please contact your Client Account Manager.

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