

e-Alert

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California to Reenact COVID-19 Supplemental Paid Sick Leave (SPSL)

Background

California recently passed [Assembly Bill 84 \(AB84\)](#), which requires employers with more than 25 employees to provide COVID-19 supplemental paid sick leave (CA SPSL) to their employees, in addition to regular paid sick leave offered. **The leave requirement will go into effect February 19, 2022, but is retroactive to January 1, 2022. The leave is set to expire on September 30, 2022.** The new leave requirement is **in addition to** other leave provided by the employer.

Summary

Reasons for and Amounts of Leave

The 2022 edition of CA SPSL has two buckets of leave, each with 40 hours of paid time, totaling 80 hours per full time employee. Part time employees will be awarded a pro-rated amount of leave based on their regularly scheduled hours. Employees with varied schedules will receive leave based on average hours worked over a six-month lookback period. Leave should be paid at the employee's regular rate of pay and is capped at \$511 per day. The lookback period to determine the employee's regular rate of pay has been reduced to a 90-day window.

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The first bucket of leave will cover the following reasons:

- Employee tests positive for COVID-19
- Employee's family member tests positive for COVID-19

The second bucket of leave will cover the following reasons:

- Quarantine or isolation is recommended by order of a federal, state, or local agency
- Quarantine or isolation is recommended by order of a physician
- Receiving the COVID-19 vaccination*
- Recovering from symptoms of the COVID-19 vaccination*
- Employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis
- Family member is receiving the COVID-10 vaccination*
- Family member is recovering from symptoms of the COVID-19 vaccination*
- School closures due to COVID-19 outbreak

*These reasons for leave are only eligible for up to 24 hours per injection, unless otherwise directed by a physician.

Employee Eligibility

Employees who took time on or after January 1, 2022, for any of the qualifying reasons listed above may request to be compensated. Both verbal and written requests are acceptable. Upon request, the wages owed to the employee must be paid on or before the next regularly scheduled pay period.

Employers may not mandate that any other type of leave be exhausted prior to or instead of an employee taking leave under 2022 CA-SPSL.

Employers that provided COVID-19 related leave for reasons covered by the new law in greater or equal amounts may take credit for previously provided leave since January 1, 2022.

Documentation

Employers may require documentation from employees when they request to take leave to care for themselves or a family member due to COVID-19 symptoms or diagnosis. If the

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employee refuses to provide the requested documentation, the employer is not obligated to provide paid leave. Further guidance regarding appropriate documentation is forthcoming.

Wage Statement Requirements

Unlike previous editions of CA SPSL, employers are only required to report how many hours of CA SPSL the employee has used on a wage and earnings statement. A balance of time remaining is not required.

Notice Requirements

An updated poster notice is scheduled to be published within the coming weeks. Once published, employers are required to post the notice in a conspicuous location and distribute via email to each employee.

Reimbursement

At this time, there is no explicit direction that employers will be reimbursed for the cost of providing employees with CA SPSL.

Employer Next Steps

- HRK will continue to monitor for updates around California's Updated SPSL.
- Check for updates on California's Department of Industrial Relations website for an upcoming [FAQ](#), as well as the required poster notice.
- If you are a Full-Service or Virtual HR client and have questions about this e-Alert, please [email us](#)

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