



Los Angeles Passed Paid Sick Time Law Effective July 1, 2016

By Ben Clairday & John Garner

Los Angeles has become the 5th city in California to enact a paid sick time law that differs from the California Law, joining Emeryville, Oakland, San Francisco and Santa Monica. San Diego voters also appear to have approved paid sick leave and that law will take effect after the results of the June election are certified (probably in mid-July).

The Los Angeles law applies to employees who work more than two hours per week in the city of Los Angeles. The Ordinance includes an urgency clause making it effective on July 1, 2016. All employers with employees working in the City of Los Angeles must comply with the new rules, with the exception of certain non-profit organizations. The City will establish a procedure to allow non-profit organizations to qualify for a deferral.

The Los Angeles Ordinance is more generous than the existing California paid sick time requirements. Under California law, employees are entitled to use at least 24 hours or three days of paid sick time each year. The L.A. Ordinance requires that employees be permitted to use up to 48 hours of accrued sick time each year, regardless of the size of the employer.

Employees can gain these hours in two different ways, by either receiving a lump sum from their employer or through accrual. Employers may provide the entire 48 hours of paid sick time in a lump sum. Or similar to state law, employees can accrue no less than 1 hour of paid sick time for every 30 hours worked, which caps at a minimum of 48 hours. The accrual time includes overtime hours. Unlike the California law, which does not require carryovers if paid sick leave is front-loaded, the L.A. law requires carryovers, which can be capped at 72 hours.

Employees will be entitled to accrue the paid sick time starting on the effective date of July 1, 2016. However, employees cannot use sick leave until the 90th day of employment.

Sick Time must be paid at no less than the newly applied minimum wage rates set forth in the city's Minimum Wage Ordinance which is now \$10.50 an hour for employers that have 26 or more employees.

Compared to California law, the L.A. Ordinance broadens the definition of a person for whom paid sick time can be used, stating that the time can be taken for any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

Written notice of any change in existing policy must be provided within 10 days of the change. Notice must be posted regarding sick time requirement. Notices must be in English, Spanish, Chinese (Cantonese and Mandarin), Hindi, Vietnamese, Tagalog, Korean, Japanese, Thai, Armenian, Russian and Farsi, or any other language spoken by at least 5% of the employees at the workplace or job site.

Under California law, an adverse action taken within 30 days after exercise of rights is presumed to be retaliatory. Within the L.A. Ordinance, this window is expanded to 90 days.

One section of the Los Angeles Ordinance is more generous to the employer. The Ordinance explicitly allows an employer to request reasonable documentation of an absence of work for which documentation is being used. It does not define "reasonable documentation" or the correct times for a request.

Employers are not required to pay for unused sick leave upon termination of employment. If an employee is rehired within one year, previously accrued and unused paid sick time must be reinstated.

The City's Office of Wage Standards of the Bureau of Contract Administration is authorized to promulgate guidelines. It is not known when the guidelines will be forthcoming and employers should prepare to comply now, rather than waiting for the guidelines.

Employers that have employees who work in the City of Los Angeles should take the following actions:

- Review the paid sick time policy and revise to meet the Ordinance's requirements, including carryover, cap, and all other provisions.
- Decide whether to use an accrual or lump-sum method for employees.
- Evaluate attendance and other disciplinary policies to avoid retaliation claims.
- Create a system to send notices to each affected employee and post proper notices at each work location.

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John Garner, CEBS, CLU, CFCI, CMC, GBA, RPA

Chief Compliance Officer

Bolton & Company

(626) 535-1446

jgarner@boltonco.com