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# California Expands Supplemental COVID-19 Paid Sick Leave Requirements

By Claire E. Morton / Sep 21, 2020

Employers must be aware that new laws in California pertaining to paid sick leave for COVID-19-related reasons went into effect on September 19, 2020, and require immediate compliance.

On September 9, 2020, California Governor Gavin Newsom signed Assembly Bill 1867 (“AB 1867”) establishing supplemental COVID-19 leave obligations for certain large employers, as well as, employers of health care, public safety, and food service workers.

As background, earlier this year, Congress passed the Families First Coronavirus Response Act (“FFCRA”). The FFCRA provides emergency paid sick leave for certain workers and a temporary expansion of family leave rights. However, the FFCRA paid sick leave and family leave provisions only apply to private employers with fewer than 500 employees (and more than 50 employees and meeting a test pursuant to the regulations) and public employers regardless of size.

As a result, the purpose of AB 1867 is to fill in the gaps left by the FFCRA in order to immediately expand supplemental paid sick leave for COVID-19-related reasons. As such, AB 1867 will require private employers with 500 or more employees nationwide to provide their California employees with paid sick leave for specific COVID-19-related reasons.

Importantly, the Act also requires all employers of any size employing health care providers and emergency responders to provide such employees with COVID-19 supplemental paid sick leave and private employers with 500 or more employees of “food service” workers.

## Compensation of COVID-19 Supplemental Paid Sick Leave

The number of hours to which an employee is entitled depends on the employee’s regular work schedule.

- “Full-time” employees and employees who worked or were scheduled to work, on average, at least 40 hours per week in the two weeks preceding the date the employee took the COVID-19 supplemental paid sick leave, are entitled to 80 hours, or roughly 10 days, of COVID-19 supplemental paid sick leave.
- “Part-time” employees with fixed schedules will receive an amount of the paid sick leave equal to the total number of hours they are normally scheduled to work for the employer over two weeks.
- “Part-time” employees with varied schedules will receive 14 times the average number of hours they worked each day for the employer in the six months preceding the date they took leave. If the employee has worked for the employer for less than six months, the total length of their employment is used, unless the employee has been employed for 14 days or less. In that case, the total number of hours worked is used.
- Active firefighters who are scheduled to work more than 80 hours for their employer in the two weeks preceding the date they took leave are entitled to an amount of paid sick leave equal to the total number of hours they were scheduled to work for the employer in those two preceding weeks.

AB 1867 requires employers to make this COVID-19 paid sick leave available for immediate use by employees, either upon oral or written request.

This law also creates additional requirements for written wage statements. Employers must provide employees with written notice of the amount of emergency COVID-19-related paid sick leave available and retain records documenting the hours worked, leave provided, and leave used by an employee for 3 years. This is in addition to the existing requirement that employers include paid sick leave on the wage statement.

In addition, employers should adopt practices consistent with notice requirements found under California’s Healthy Workplaces, Healthy Families Act of 2014, which include displaying posted notice of information (or disseminating it via e-mail) relating to employee paid sick days.

In these uncertain times, it is difficult to navigate maintaining operations while ensuring that employees remain healthy and safe. It is important, however, for employers to take notice and update their policies in order to comply with these new laws.

If you are a California employer and have questions about the new law, you may contact Claire E. Morton at [cmorton@clarkhill.com](mailto:cmorton@clarkhill.com); (619.819.2431) or another member of Clark Hill’s Labor and Employment Practice Group.