

# CALIFORNIA SICK LEAVE LAWS: A SUMMARY

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**California Sick Leave Laws: A Summary** California's paid sick leave law, known as the Healthy Workplaces/Healthy Families Act of 2014, became effective on July 1, 2015. Although subsequently clarified by amendment, employers have struggled to comply with the new, and often confusing, mandatory sick leave requirements. As it is so confusing, it's always best for businesses to have insurance for their employees, should they get a terminal illness or die. If your business doesn't have this, go here. Adding to this burden is the growing trend among California cities to enact even more generous sick leave ordinances; California employers must not only comply with state sick leave law, but must also be aware that more demanding local laws may apply. Indeed, in some cities, if an employee works even briefly within the city limits, that city's sick leave rules will apply, as well as penalties for lack of compliance. It is therefore critically important that employers know the specifics of any local sick leave law that may apply to their employees, and that they develop appropriate policies and procedures for compliance.

To assist our clients and friends with this daunting task, we've summarized the key features of local paid sick leave laws in California, which include the currently operative sick leave laws enacted by the cities of Los Angeles, San Diego, San Francisco, Oakland, Emeryville and Long Beach (applicable to hotel workers only) (note that Los Angeles, Santa Monica and others have additional rules which apply to hotel workers which are not included herein and that San Francisco's law applies to the City and County of San Francisco). We've also summarized the requirements of sick leave laws enacted in Santa Monica and Berkeley that will become operative in 2017, as well as the requirements of the state paid sick leave law, which continues to set the minimum standards for all employers operating in the state.

Some of the ordinances provide less stringent requirements for smaller employers, but it is important to keep in mind that certain employers may be viewed collectively as one employer for purposes of determining the number of employees they employ. In fact, Santa Monica's sick leave ordinance contains such a provision, but employers should assume that other jurisdictions may also view employers as a single employer if they have common ownership and financial control, management, interrelation of operations, and/or centralized control of labor relations and personnel.

In reviewing the features of the various local sick leave ordinances summarized below, employers should also keep in mind that when the law of more than one jurisdiction applies, the employer's policy must meet the requirements of the most generous paid sick leave law in effect:

## **City of Los Angeles**

Businesses averaging fewer than 26 employees in 2015 may defer compliance until July 1, 2017.

### Accrual and Use:

- Paid sick leave accrues on the first day of work in the City of Los Angeles, provided the employee works 30 days within a year in the City of Los Angeles for the employer.
- 48 hours may be frontloaded or accrual must be at the rate of 1 hour for every 30 hours worked in the City of Los Angeles, with use limited to at least 48 hours/year.
- Carry over of up to 72 hours of unused sick leave must be permitted whether sick leave is frontloaded or accrued.
- If frontloaded on a calendar basis, on July 1, 2016, employers can provide 24 hours for the period from July 1, 2016 through December 31, 2016. This proration is available for 2016 only and on January 1, 2017 (and every January 1<sup>st</sup> thereafter), the full 48 hours must be provided.
- Sick leave may be used for the care of an individual whose relationship to the employee is similar to that of a family member.
- Paid Sick leave is usable on 90<sup>th</sup> day of employment.

### Eligibility:

- Non-exempt employees who have worked at least 30 days in a year in the City of Los Angeles for the same employer are eligible.
- The employee may meet the 30 day threshold requirement by working 30 days or more in the City during any 12-month period after commencement of employment. The 12-month period begins the first day the employee works any increment of time in the City. If the employee doesn't work a total of 30 days in the City in the 12-month period, the employee does not qualify for sick leave benefits under the City of Los Angeles ordinance. A new year would begin on the first day the employee works in the City of Los Angeles following the last 12 month period.

## **City of San Diego**

## Accrual and Use:

- Accrual begins on the first day of work in San Diego.
- Employers may frontload at least 40 hours or provide accrual of 1 hour for every 30 hours worked in San Diego with use limited to at least 40 hours per year.
- Accrual and carry over of up to 80 hours per year, unless sick leave is frontloaded.
- Paid sick leave is usable on the 90<sup>th</sup> calendar day of employment.

## Eligibility:

- An employee is eligible once he/she works in the City of San Diego at least 2 hours in one or more calendar weeks, beginning on the first day of work.

## City and County of San Francisco

### Accrual and Use:

- Accrual begins on 90<sup>th</sup> day of employment with use permitted immediately, but effective January 1, 2017, accrual must begin on hire, with use permitted on the 90<sup>th</sup> day of employment.
- Sick leave must accrue at the rate of 1 hour for every 30 worked with frontloading not permitted, but will change on January 1, 2017 to permit frontloading, which will be treated as an advance against accrual at the rate of 1 hour for every 30 worked.
- For employers with fewer than 10 employees (including part-time and temporary employees), accrual is subject to a “floating” accrual cap of 40 hours.
- Employers with 10 or more employees (including part-time and temporary employees) are subject to a “floating” accrual cap of 72 hours.
- A “floating” accrual cap means that accrual stops when the applicable cap is reached; if sick leave is used and falls below the cap, accrual begins again.
- Carry over up to the applicable cap is required.
- Beginning on January 1, 2017, use must be permitted in increments of 1 hour.
- Beginning January 1, 2017, leave can be used to donate bone marrow or an organ.

### Eligibility:

- Any employee who performs work in the City or County of San Francisco is eligible for paid sick leave.

## **City of Oakland**

### Accrual and Use:

- Accrual must begin upon hire.
- Sick leave must accrue at the rate of 1 hour for every 30 hours worked in the City of Oakland, with no use limitation permitted.
- For an employer of over 10 employees in any location, accrual is subject to a “floating” accrual cap of at least 72 hours.
- For employers with fewer than 10 employees in any location, accrual is subject to a “floating” accrual cap of at least 48 hours or 6 days.
- A “floating” accrual cap means that accrual stops when the applicable cap is reached; if sick leave is used and falls below the cap, accrual begins again.
- Carry over up to the accrual cap is required.
- Paid sick leave may be used on the 90th day of employment.
- Sick leave may be used in one hour increments.
- An employee can designate an individual to care for using sick leave if the employee has no spouse or registered domestic partner.

### Eligibility:

- Employees are eligible for sick leave accrual if they work at least 2 hours in a workweek in Oakland.

## **City of Emeryville**

### Accrual and Use:

- Accrual begins on the first day of work in Emeryville.
- Use must be permitted on the 90<sup>th</sup> day of employment.
- Accrual at the rate of 1 hour for every 30 hours worked is required or sick leave may be frontloaded or a combination of both methods is permitted.
- Accrual of at least 48 hours/year is required for employees of businesses with 55 or fewer employees in Emeryville city limits, and at least 72 hours/year for employees of businesses with 56 or more employees

within Emeryville city limits.

- Carry over of sick leave up to the applicable accrual cap is required unless the full amount is frontloaded.
- An employee can designate an individual to care for using sick leave if the employee has no spouse or registered domestic partner.
- Sick leave can be used to care for the employee's guide dog, signal dog or service dog.

Eligibility:

- All employees working at least 2 hours within a week in Emeryville are eligible.

### **City of Santa Monica-(Operative January 1, 2017)**

Santa Monica's paid sick leave ordinance will become effective on January 1, 2017.

Accrual and Use:

- Accrual starts on the first day of work.
- Sick leave must either accrue at the rate of one hour for every 30 hours worked in Santa Monica or sick leave in the amount of the applicable accrual cap may be frontloaded.
- For businesses with 26 or more employees, accrual is subject to a "floating" accrual cap of 40 hours and smaller businesses are subject to a "floating" accrual cap of 32 hours. These amounts will increase on January 1, 2018, when employers with 26 or more employees will be subject to a "floating" accrual cap of 72 hours and employers with less than 26 employees will be subject to a "floating" accrual cap of 40 hours.
- A "floating" accrual cap means that accrual stops when the applicable cap is reached; if sick leave is used and falls below the applicable cap, accrual begins again.
- Unless sick leave is frontloaded, for larger employers, carry over of at least 40 hours (or 72 hours in 2018) is required; for smaller employers, carry over of at least 32 hours (or 40 hours in 2018) is required. Note, however, that carry over of at least 6 days/48 hours is required by state law if sick leave is not frontloaded.
- Employees may use paid sick leave on the 90th calendar day of employment.

Eligibility:

- Non-exempt employees performing at least 2 hours work within the geographic boundaries of Santa Monica for a covered employer are eligible.

## **City of Berkeley-(Operative October 1, 2017, but subject to change if either of 2 sick leave ballot measures pass in November)**

The ordinance becomes operative on October 1, 2017, but is subject to change if either of 2 ballot measures pass in November.

### Accrual and Use:

- Accrual of one hour for every 30 hours is required, but accrual is in hour-unit increments only, with no accrual of a fraction of an hour.
- A smaller business with up to 25 employees is subject to a cap of up to 48 hours per calendar year.
- Larger businesses have a cap of up to 72 hours.
- There is no limitation on the amount of sick leave that may be used.
- Carry over up to 48 hours or 72 hours, whichever is applicable, is required.
- Paid sick leave is usable on the 90th calendar day of employment.
- If the employee has no spouse or registered domestic partner, the employee can designate a person to care for using sick leave.

### Eligibility:

- Non-exempt employees who perform at least 2 hours or work within the City of Berkeley are eligible.

## **State of California**

State law will apply to all employees working at least 30 days in CA for one employer in a year. If local law also applies, the employee is entitled to the most generous of the applicable laws. Accrual and Use:

- Accrual begins on the first day of work in CA for the employer, provided the employee works 30 days within a year in CA for the employer.
- Sick leave of 3 workdays or 24 hours, whichever is greater, may be frontloaded, or sick leave must accrue at the rate of 1 hour for every 30 hours worked, with use limited to as few as 3 days or 24 hours, whichever is greater.
- Alternate accrual rates are permitted if they meet certain benchmarks.
- Carry over of at least 6 workdays or 48 hours, whichever is greater, is required if sick leave is not frontloaded.

- Use must be permitted on the 90th day of employment.

Eligibility:

- An employee who works in California for the same employer for 30 or more days within a year from the commencement of employment is eligible.

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