

New California Paid Sick Leave Law Requirements



Approximately six million California residents became eligible for paid sick leave for the first time on 7/1/15 due to the "[Healthy Workplace Healthy Family Act of 2014 \(AB 1522\)](#)." The legislation was authored by Lorena Gonzalez a Democrat from San Diego.

On July 13, 2015, Governor Jerry Brown signed Assembly Bill "[AB 304 Sick Leave: Accrual and Limitations](#)" amending the "Healthy Workplace Healthy Family Act of 2014" sections 245.5, 246 and 247.5 of the California Labor Code. The amendment became effective immediately after the legislation was signed.

The new law presents some challenging requirements for all California employers regardless of their industry or number of employees with only some exemptions for specifically designated employees. The following is a summary of some of the key changes in the new legislation. It is not to be considered legal or accounting advice.

Eligibility Requirement

An employee who works in California for thirty or more days within a year from the beginning of the employment is entitled to paid sick days so long as the employee works for at least thirty days within the previous twelve months with the **same** employer.

Accrual Methods

Employers may provide for employee sick leave on a basis "other than one hour for each thirty hours worked" provided that the accrual is on a regular basis and the employee will have accrued sick leave available by the 120th calendar day of employment.

Limited Sick Leave Use

Employers may limit an employee's use of paid sick days to twenty-four hours or three days in "each year of employment," "calendar year" or "12 month period."

Notice Requirement

Pursuant to the original law, employers were required to provide employees with written notice of the amount of sick leave available or the amount of paid time off the employer provided instead of sick leave. The amended law specifies that employers who provide **unlimited** sick leave may comply with the notice requirement by indicating "unlimited" on their employees' "wage statements."

Reinstatement of Unused Days on Rehire

The original statute did not require an employer to pay unused sick days upon termination. However, unused sick days must be reinstated if the employee is rehired within one year. The new law provides that an employer is not required to reinstate accrued paid time off that was paid at termination. The amendment also stipulates that any reinstated sick leave is subject to the same use and accrual limitations of the statute.

Pay Rates for Sick Leave

According to AB 304, employers are required to calculate paid sick leave for non-exempt employees based on: (1) regular rate of pay for the week in which the employee uses sick leave (the rate used when calculating the overtime premium rate) or (2) total wages, excluding overtime premiums, divided by the total hours worked in the full pay periods of the prior ninety days of employment. Paid sick leave for exempt employees may be calculated in the same way as the employer calculates wages for other forms of paid leave time.

Recordkeeping

Employers are required to keep records for at least three years documenting the hours worked as well as paid sick days accrued and used by their employees. They must make these records available to the Labor Commissioner upon request. The amendment releases the employer of inquiring and recording the **purposes** for which an employee used the paid leave or paid time off.

Minimizing Your Risk

Given the complexity of the original law and its amendments, it is highly recommended employers review their existing paid sick leave and paid time off policies to make sure they are in compliance with the new legislation. The cost of not properly complying with current labor laws is detailed in the Pacific Crest Group case study "[Risk Management Saves Thousands in Litigation Fees.](#)"

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In this case, all of the Client's employment records had to be brought up to date and made compliant with applicable local, state and Federal laws. A process that would normally take at least one year was done in six months. The Client was trained on risk management strategies that resulted in saving thousands of dollars in additional litigation and government imposed penalties and interest charges.

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