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California Increases Paid Sick Leave in 2024: Compliance Reminder

California was on the cutting edge of employee sick leave benefits when it rolled out Paid Sick Leave in 2015, but the 24 hours provided soon looked meager compared to the amounts offered by other states and localities. Now, eight years in, the state has increased the three-day benefit to a five-day benefit. Beginning January 1, 2024, employees must be able to use up to 40 hours or five days per year of paid sick leave.

Accrual Methods

The standard accrual rate of 1 hour per 30 hours worked remains the same. Employers that use some *other* method of accrual must allow employees to earn at least 24 hours by their 120th day of employment, or in each calendar year or other 12-month period (same as before), and all 40 hours by their 200th day of employment, or in each calendar year or other 12-month period. (Note that 24 hours in 120 days and 40 hours in 200 days will be earned at the *same rate*.)

Lump Sum Methods

Employers that provide leave in a *lump sum* need to provide at least 24 hours or three days of sick leave to use no later than after an employee's 120th day of employment (same as before) and all 40 hours or five days after their 200th day. This seems to open the door to providing 24 hours or three days of sick leave when the employee has completed their 120th day while withholding the remaining 16 hours or two days until the employee has completed their 200th day.

Of course, employers are still free to provide the full amount of leave up front and don't need to provide it in two installments. They can also allow employees to *use* sick leave before completing 120 days of employment.

You still don't have to allow carryover if providing the *full* amount of leave (i.e., 40 hours or five days) at the beginning of each year using the lump sum method. However, the law doesn't allow you to avoid carryover if you decide to divvy up an employee's lump sum leave allotment into 24 and then 16 hours (or any other combination that did not provide the full amount of leave at the start of the year).

Use Caps and Carryover

The yearly use cap is now 40 hours or five days instead of 24 hours or three days. The total (rolling) accrual cap is now 80 hours or 10 days instead of 48 hours or six days.

Preemption of Local Sick Leave Rules

The amended law includes *preemption* of certain provisions in local sick leave ordinances. This means that localities will need to follow the state law exactly on those particular issues—they will not be allowed to write (or enforce) more restrictive or more employee-friendly rules. Preemption applies to the following provisions:

- End of employment payout of employees' unused sick leave
- Employer advancement of (unaccrued) sick days to employees
- Employer written notice requirement regarding available leave
- Rate of pay calculations for employees' actual sick leave taken
- Employee notification for foreseeable and unforeseeable use of sick leave
- Timing of payment to employees for paid sick leave used

Thankfully, localities with their own sick leave laws have so far been almost totally aligned—or at least not in conflict—with the state on these topics. Employers in these locations shouldn't have to overhaul their sick leave policies aside from ensuring that they offer as many hours as now required by the state. Localities are not barred from writing and enforcing more employee-friendly sick leave rules on matters *not* in this list, such as total number of hours accrued or acceptable reasons to use leave.

Action Items

- Update your sick leave policies to comply with the increase in hours
- If you use bundled policies (e.g., paid time off or flexible time off that includes both sick and vacation time), ensure that those are also at least as generous as the updated sick leave requirements
- Distribute updated policies to employees by January 1, 2024
- Keep an eye out for an updated Paid Sick Leave poster from the [California Department of Industrial Relations](#)