



New York State Adopts Additional Protections for Employees Quarantined by Coronavirus (COVID-19) and Paid Sick Leave for All

March 18, 2020

On March 17, 2020, Governor Cuomo agreed with the New York State Legislature on a bill that will provide job protection and paid and unpaid sick leave to those forced to miss work because of COVID-19. (This does not appear to affect employees who self-separate from work, or employees at businesses that proactively send employees home.) The bill is expected to be signed into law by the governor on March 18.

Under the bill, the following benefits apply to employees (“eligible employees”) who are subject to a mandatory or precautionary order of quarantine or isolation issued by the state of New York, the Department of Health, a local board of health, or any other governmental entity duly authorized to issue such an order, due to COVID-19. Additionally, such employees are eligible for Paid Family Leave Act (“PFLA”) benefits and benefits due to disability.

Employers who had ten or fewer employees as of January 1, 2020: must provide each eligible employee with unpaid sick leave until the quarantine or isolation period is over.

Employers who had ten or fewer employees as of January 1, 2020, and who had a net income of greater than one million dollars in the previous tax year: must provide each eligible employee with five days of paid sick leave. Additionally, they must provide unpaid sick leave until the quarantine or isolation period is over.

Employers who had between eleven and ninety-nine employees as of January 1, 2020: must provide each eligible employee with five days of paid sick leave. Additionally, they must provide unpaid sick leave until the quarantine or isolation period is over.

Employers who had one hundred or more employees as of January 1, 2020: must provide each eligible employee with fourteen days of paid sick leave.

All employees must be restored to the positions that they held prior to being quarantined or isolated. All of these benefits are to be provided to employees without loss of their accrued sick leave benefits.

These benefits do not apply to:

1. Employees who were forced to quarantine or isolate themselves because they traveled to countries that they were warned not to travel to by the Centers for Disease Control and Prevention.
2. Employees who are asymptomatic or have not yet been diagnosed with any medical condition and are physically still able to work remotely or through other means.

New York State Adopts Mandatory Sick Leave for All Employees

In addition to addressing coronavirus issues, the bill, when enacted, will also amend the sick leave requirements under NYS law covering all employees. The following rules will apply:

Employers who have four or fewer employees in any calendar year: must provide each employee with up to forty hours of unpaid sick leave each year.

Employers who have four or fewer employees in any calendar year and who had a net income of greater than one million dollars in the previous tax year: must provide each employee with up to forty hours of paid sick leave each year.

Employers who have between five and ninety-nine employees in any calendar year: must provide each employee with up to forty hours of paid sick leave each year.

Employers who have one hundred or more employees in any calendar year: must provide to each employee with up to fifty-six hours of paid sick leave each year.

On and after January 1, 2021, employers must provide accrued sick leave for the following purposes:

1. a mental or physical illness or a health condition of the employee or the employee's family member;
2. for the diagnosis, care, or treatment of such illness or health condition; and
3. for an absence of work due to domestic violence, stalking, sexual offense, or human trafficking.

Employees will accrue 1 hour of sick time for every 30 hours worked. Unused sick leave is carried over to the following year, but the employer can limit the amount of sick leave taken in a year to 40 hours (employers of fewer than 100 employees) or 56 hours (101+ employees). Unused sick time is not required to be paid out upon separation from employment.

The new law also contains certain procedural changes. Upon oral or written request by an employee, the employer is required to provide information on the amount of sick leave accrued and used by the employee within three business days. In addition, sick leave records are added to the required records which must be kept by the employer for six years.

These provisions become effective on or about September 14, 2020 (180 days after the law is adopted), and employees will begin accruing benefits at that time. The first day accrued sick time can be taken is January 1, 2021.

If you have questions regarding any aspects of employment law and any implications the COVID-19 virus has caused or will cause to your place of business, feel free to contact Thomas B. Wassel at (516) 357-3868 or via email

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