

August 24, 2015

## **Effective Immediately!!!!**



### **Amendments to California's Paid Sick Leave Have Been Issued**

As we previously advised, on July 13, 2015, Governor Jerry Brown signed into law Assembly Bill 304, also known as California's Health Workplaces, Healthy Families Act of 2014 ("Act"). The Act, effective July 1, 2015, requires employers to offer employees, with limited exceptions, three days or 24 hours of paid sick leave per year. The Act contains specific accrual requirements and provides a very broad range of reasons for employees to take the paid sick leave.

Two weeks after employers implemented their new policies and procedures amendments to the Act were published - effective immediately.

The amendments do not affect the new policies and procedures already implemented by employers. Instead, they provide additional options that may reduce employers' compliance burdens. For employment policies already compliant with the Act, employers should review the amendments to determine if they want to make any changes to their current policies or make changes to their policies in 2016. Below is a summary of some of the more notable amendments:

#### **Alternative Methods of Accrual**

Employers are allowed to use alternative methods of accrual. Now employers may use any accrual method "provided that the accrual is on a regular basis so that an employee has no less than 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment, or each calendar year, or in each 12-month period."

#### **Frontloading**

While employers are still allowed to frontload paid sick leave by providing employees with 24 hours or three days of paid sick leave at the beginning of the year, the amendment clarifies that the amount provided must be the greater between the 24 hours or three sick days. For example, an employee who works 10 hour shifts will be entitled to 30 hours of paid sick leave.

#### **30 Days or More With the Same Employer**

The Act was unclear as to whether an employee was required to work 30 or more days for the same employer to be eligible for paid sick leave. The amendment clarifies this ambiguity by providing that employers are obligated to provide paid sick leave to employees who, on or after July 1, 2015, have worked 30 or more days *for the same employer* within a year from the

commencement of employment.

### **Unlimited Paid Sick Leave/Paid Time Off**

Employers are now allowed to indicate “unlimited” on employees’ paystubs for those employees who receive unlimited paid sick leave or paid time off.

### **Calculating the Regular Rate of Pay**

Employers may use an alternative, simpler way to apply a non-exempt employee's regular rate of pay for the workweek in which an employee uses paid sick leave. Now employers may apply the regular rate of pay for the same workweek in which an employee used paid sick leave. Prior to the amendment, employers were required to look back at the previous 90 days of employment to determine an employee's regular rate of pay.

### **Reinstatement Within a Year of Discharge**

Employees who return to work, with the same employer, within a year of discharge are not entitled to have their accrued sick leave reinstated if, at the time of discharge, they received full compensation for their unused paid time off.

### **Employer Inquiries**

Employers that offer paid time off often do not distinguish whether the time is taken for sick leave or vacation. In this instance the Act was unclear as to how employers would track the use of paid sick leave. The amendment makes it clear, employers do not need to ask whether the paid sick time was taken for the reasons covered under the Act prior to making deductions from an employee's paid sick leave.

### **Is Your Policy Compliant???**

Employers should carefully review their paid sick leave policies to ensure compliance with the Act, amending where necessary.

*For more information on any of these new laws, handbook compliance, or any employment compliance issues, contact Rhonda L. Nelson at 415-677-5502, [rln@severson.com](mailto:rln@severson.com); or Danielle M. Ellis-Andrews at 415-677-5504, [dme@severson.com](mailto:dme@severson.com).*

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