

New York State Enacts Paid Sick Leave Law in Response to Coronavirus

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Earlier this week, as millions of Americans were being urged to self-quarantine to curb the spread of COVID-19, New York Governor Andrew Cuomo signed a new paid sick leave bill into law. The law is designed, among other things, to provide New Yorkers out of work due to the COVID-19 pandemic with immediate relief, but will provide workers with paid sick leave benefits after the current crisis has passed.

Emergency Paid Sick Leave

The law mandates that New York employers provide the following sick leave immediately:

- Employers with 100 or more employees as of January 1, 2020 must provide their employees who are not working remotely and are self-quarantining inside their homes in response to a mandatory or precautionary order of quarantine with 14 days of paid sick leave.
- Employers with more than 10 employees but less than 100 employees as of January 1, 2020 must provide their employees who are not working remotely and are self-quarantining inside their homes in response to a mandatory or precautionary order of quarantine with 5 days of paid sick leave. These employers are also required to provide their employees with access to short-term disability benefits and New York paid family leave.
- Employers with 10 or less employees as of January 1, 2020 are not required to provide their employees with any paid sick leave, but must provide their employees with access to short-term disability benefits and New York paid family leave.

The law covers all employees, including part-time employees and temporary employees. New York employers must provide this emergency paid sick leave in addition to any sick leave benefits employees have accumulated up until this point. However, employees who voluntarily traveled to a location that the CDC has issued a level two or three travel health notice (including China, most of Europe, Iran, Ireland, Malaysia, South Korea, and the United Kingdom) and were aware of such notice prior to their travel are not eligible for the emergency paid sick leave benefits detailed above under the new legislation.

Paid Sick Leave After September 15, 2020

The law also requires New York employers – starting September 15, 2020 – to provide their employees with the following sick leave:

- Employers with 100 or more employees must provide their employees with 1 hour of paid sick leave for every 30 hours worked, up to 56 hours of paid sick leave annually.
- Employers with more than 5 employees but less than 100 employees must provide their employees with 1 hour of paid sick leave for every 30 hours worked, up to 40 hours of paid sick leave annually.
- Employers with 5 or less employees must provide their employees with 1 hour of unpaid sick leave for every 30 hours worked, up to 40 hours of unpaid sick leave annually. However, if any employer with 5 or less employees has accrued more than \$1 million of net income in the previous year, the leave must be paid.

Although employees begin accruing sick leave on September 15, 2020, employees cannot use their accrued sick leave until January 1, 2021. Starting January 1, 2021, employers must permit their employees to use accrued sick leave for the following purposes:

- For a mental or physical illness, injury, or health condition of an employee or an employee's family member, regardless of whether

that condition has been diagnosed or requires medical care at the time that employee requests leave;

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

Employers may not require their employees to disclose confidential information relating to leave taken as a result of any domestic violence, sexual offense, stalking, or human trafficking.

Currently, New York State imposes no paid sick leave obligations upon its employers. However, New York City requires its employers to provide nearly all employees who work in the City at least one hour of paid sick leave for every 30 hours worked – up to a total of 40 hours of paid sick leave per year. New York City employers with greater than 99 employees must prepare to adjust their sick leave policies to reflect the new law's cap of 56 hours.

Foley Hoag has formed a firm-wide, multi-disciplinary [task force](#) dedicated to client matters related to the novel coronavirus (COVID-19). For more guidance on your COVID-19 issues, visit our [Resource Page](#) or contact your Foley Hoag attorney.

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