

## Connecticut Mandates Paid Sick Leave to Certain Employees

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On July 5, 2011, Connecticut Governor Dan Malloy signed into law Public Act No. 11-52 – An Act Mandating Employers Provide Paid Sick Leave to Employees (the “Act”) – which entitles certain employees to paid sick leave. (A copy of the Act can be accessed [here](#).) The new law will go into effect on January 1, 2012. Although some cities and Washington, D.C. presently require employers to provide employees with paid sick leave, Connecticut is the first state in the nation to pass such legislation.

The law applies to employers with 50 or more employees working in Connecticut; such coverage is determined as of January 1 each year, and is met by the employment of 50 or more employees in any quarter in the previous year. Manufacturers and nationally chartered tax-exempt organizations are excluded from the law. The employees who are eligible for paid sick leave are service workers who work in occupations that fall within any one of 68 federal Standard Occupational Classification System positions listed in the Act. This includes, for example, retail salespersons, food service workers, physician assistants, registered nurses, janitors, secretaries, receptionists, computer operators, data entry workers, certain hotel workers, and drivers. To be eligible, service workers must be paid on an hourly basis or classified as non-exempt under the Fair Labor Standards Act. It should be noted that this designation includes non-exempt employees paid an annual salary. Day and temporary workers, such as those performing work on a per diem basis, or on an occasional or irregular basis, including individuals paid either by the employer or by temporary employment agencies, are excluded from coverage under the Act. Exempt employees are also excluded.

The Act includes the following requirements:

- Employers must provide eligible employees up to 40 hours of paid sick leave annually.
- Such leave will accrue in one-hour increments at a rate of one hour for every 40 hours worked.
- Eligible employees will not be entitled to use their accrued paid sick leave until they complete 680 hours of employment beginning January 1, 2012, or from the date of hire, whichever is later.
- Unused accrued sick leave may be carried over to the following year; however, no more than 40 hours can be used in any calendar year.

- Eligible employees who do not work an average of 10 or more hours a week in any calendar quarter will not be entitled to use accrued paid sick leave in the following quarter.
- The amount to be paid for sick leave is to be calculated based on the eligible employee's hourly wage. Should the hourly wage vary during the pay period prior to taking the leave, the employee must be paid the average hourly wage of that pay period.
- Unless an employee policy or a collective bargaining agreement provides for the payment of accrued fringe benefits upon termination of employment, eligible employees are not entitled to payment of unused accrued sick leave upon termination.
- An employer will be deemed in compliance with the Act if it provides at least 40 hours of paid leave to eligible employees, so long as the leave may be used for the same purposes as the leave permitted under the Act and is accrued at a rate that is equal to, or greater than, the rate of accrual of the leave under the Act.
- Employers may require employees taking paid sick leave to provide advance notice – not to exceed seven days – if the need for such leave is foreseeable. Where the need for leave is not foreseeable, employers may require notice as soon as practicable. Employers may also require employees to provide appropriate documentation of the need for such leave after taking three or more consecutive days of paid sick leave.

An eligible employee may use the paid sick leave provided under the Act as follows:

- For the employee's illness, injury, or health condition;
- For the medical diagnosis, care, or treatment of the employee's mental illness or physical illness, injury, or health condition;
- For the employee's preventative medical care;
- For one of the three above-stated purposes when it relates to the employee's spouse or child; and
- If an eligible employee is a victim of family violence or sexual assault:
  - for medical care or psychological or other counseling for physical or psychological injury or disability;
  - to obtain services from a victim services organization;
  - to relocate due to such violence or assault; or
  - to participate in a judicial proceeding related to, or resulting from, such violence or assault.

In addition, the Act prohibits covered employers from retaliating or discriminating against any eligible employee because the employee:

- Requests or uses paid sick leave in accordance with the law;

- Requests or uses paid sick leave in accordance with the employer's own paid sick leave policy; or
- Files a complaint with the Labor Commissioner.

The law further provides that covered employers are required to notify those employees hired into eligible service worker positions, at the time of hire:

- Of the employee's entitlement to paid sick leave;
- Of the amount of leave provided;
- Of the terms under which the leave may be used;
- That retaliation by the employer against the employee for requesting or using paid sick leave is prohibited; and
- That the employee has a right to file a complaint with the Labor Commissioner.

It is important to note that employers displaying a poster containing such notice, both in English and in Spanish, in a conspicuous place accessible to service worker employees at the employer's facilities, will be deemed in compliance with the notice provisions of the Act.

Employees aggrieved by a violation of the Act may be awarded the full panoply of relief by the Labor Commissioner, including payment for used sick leave and back wages, reinstatement, etc. The Labor Commissioner may also impose a civil penalty on employers found in violation of the law.

### **What Employers Should Do Now**

Employers should consider taking the following action steps prior to the Act going into effect on January 1, 2012:

- Determine whether any Connecticut employees will be considered eligible service workers entitled to paid sick leave under the Act.
- Determine whether existing paid leave benefits equal or exceed the paid sick leave requirements of the Act.
- Train managers and human resources personnel on the substantive requirements of the law.
- Monitor the Connecticut Department of Labor's website for:
  - the applicable poster, in English and Spanish, which notifies employees of their rights and protections under the Act; and
  - any regulations or additional requirements that may be established by the Labor Commissioner, as permitted under the Act.
- Consider adopting policies requiring employees to provide advance notice of, or appropriate documentation of the need for, the leave mandated by the Act.

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