

New Jersey Paid Sick Leave Law Takes Effect on October 29, 2018 - *Client Newsletter*

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Background

On May 2, 2018, Governor Murphy signed the New Jersey Paid Sick Leave Act (the “Act”) into law. The Act requires private employers in New Jersey to provide paid sick leave to most employees. The new law will take effect on October 29, 2018. When the Act takes effect, it will preempt the paid sick leave ordinances passed by several municipalities in the state.

Paid Leave Requirements

When the Act takes effect, current employees must earn at least one hour of paid sick leave for every 30 hours of work. New employees hired after the effective date of the Act will begin to accrue paid sick leave on their first date of employment. Employers must permit eligible employees to accrue and use up to 40 hours of paid sick leave during a 12-month “benefit year.” The Act requires employers to designate a specific 12-month period as a Benefit Year. Once an employer has established a Benefit Year it cannot be changed by the employer without notifying the New Jersey Department of Labor and Workforce Development (“NJDOL”). Employers also have the option of “frontloading” paid sick leave by giving employees all 40 hours at the beginning of the Benefit Year.

Employers that have existing paid time off (“PTO”) policies can utilize those policies to comply with the requirements of the Act as long as certain conditions are satisfied. First, the PTO policy must allow employees to use PTO for all of the reasons that the Act allows employees to use paid sick leave. Second, the PTO policy must allow employees to accrue PTO at the same rate (or faster) than the Act requires. In other words, PTO policies must allow employees to accrue PTO at a rate of at least one hour of PTO for every 30 hours worked.

Finally, the PTO policies must allow employees to accrue and use at least 40 hours of PTO during a 12-month period.

Carryover/Payout of Paid Sick Leave

Under the Act, employees are able to carryover up to 40 hours of paid sick leave from one Benefit Year to the next. However, employers are not required to let employees use more than 40 hours of paid sick leave per Benefit Year. Employers also have the option to “buyout” an employee’s paid sick leave at the end of the Benefit Year. Under the Act, employers are not required to pay employees for accrued but unused paid sick leave upon separation of employment unless the employer has a policy or collective bargaining agreement that requires it to do so.

Notice and Recordkeeping

The Act requires employers to post a notice (to be provided by the NJDOL), provide a copy of the notice to all current employees, and distribute the notice to new employees upon hiring. Under the Act, employers are also required to keep records for each employee documenting: (1) hours worked; (2) amounts of paid sick leave accrued; and (3) amount of paid sick leave used. Employers are required to maintain those records for at least five years.

The Bottom Line

If you employ individuals in New Jersey, you should review your current PTO, vacation, and other leave policies to determine whether they comply with the requirements of the Act. If necessary, you should amend your existing policies or create new ones to comply with the Act. You should also make sure that you have an adequate system for recording and maintaining the necessary information. Finally, you must post the notice from the NJDOL and distribute it to employees when it becomes available.

If you have any questions about the new Act, please contact one of our employment attorneys: Samuel Samaro, Maxiel Gomez, or James Boyan.