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New LA City Paid Sick Leave Ordinance

Doubles California Paid Sick Leave and Exposes Employers to Steep Fines

By **Wendy Lane**

Los Angeles has issued two ordinances (the “Ordinances”) which require that employees who perform at least two hours of work in a given week within the City of Los Angeles receive greater paid sick leave benefits than are required under California’s Healthy Workplaces Healthy Families Act of 2014. While the Ordinances go into effect on July 1, 2016, (that’s right, next month!) for employers with 26 or more employees, there is a one year reprieve for employers with fewer employees.

Accrual, Use, and Carry-Over

The Ordinances require employees working in the City of Los Angeles to be provided with and permitted to use at least 48 hours (six days) of paid sick leave per year, doubling the current California requirement.

As under California law, the Ordinances provide that sick leave accrues at a rate of one (1) hour for every 30 hours worked. In lieu of accrual, covered employers can “front-load” all 48 hours (6 days) of paid sick leave at the beginning of each anniversary date, calendar year or 12-month period.

The Ordinances provide that covered employees must be permitted to carry over at least 72 hours of paid sick leave from one year to the next. As of the publication of this Client Alert, the City of Los Angeles has yet to clarify whether this carry-over requirement applies when employers front-load paid sick leave.

Definition of “Family” Expanded

The Ordinances permit employees to use paid sick leave for the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee’s family member. The Ordinances expand on the California requirement by allowing employees to care for “any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.”

Definition of “Employer” Is Broad

The Ordinances define “Employer” to include “a corporate officer or executive who directly or indirectly or through an agent or any other person, including through the services of a temporary service or staffing agency or similar entity, employs or exercises control over the wages, hours or working conditions of any Employee.” Given this broad definition, corporate officers and executives should take care to comply with these Ordinances or risk being held individually liable.

Anti-Retaliation

As under California law, employers subject to the Ordinances are prohibited from retaliating against employees who seek information about or enforcement of their rights under the Ordinances. The Ordinances create a rebuttable presumption that an employer retaliated against an employee if the employer takes an adverse action against the employee within 90 days of the employee exercising his or her rights under the Ordinances.

Record-Keeping

In contrast with the 3-year record-keeping requirement under California law, the Ordinances require employers to maintain payroll records for 4 years.

Notices

Employers must post notices regarding the Ordinances in all languages spoken by at least 5% of the employees at the workplace or jobsite. Employers must also provide each current employee, as well as future employees, with a written notice of the employer's name, address, and telephone number. If the information the employer provided to the employee changes, the employer must provide the updated information in writing within ten days of the change.

Similarities with California Law

The Ordinances follow California law in providing that unused sick leave need not be paid at the time of an employee's termination and in allowing employers to decline an employee's use of sick leave until the 90th day of employment.

- Employee Remedies, Penalties and Fines
- Employers who fail to comply with the Ordinances may face serious consequences, including:
- Payment of paid sick leave benefits that are owed;
- Civil penalties of up to \$120 to each employee for each day that the employer failed to provide paid sick leave as required under the Ordinances;
- Administrative penalties to the City of Los Angeles in the amount of \$50 for each day that sick leave benefits were unlawfully withheld;
- Administrative fines of up to \$500-\$1000 per day for various infractions including failure to post notices, failure to maintain and/or allow access to payroll records or other books or records; and failure to provide employees with employer's name, address and phone number in writing;
- Trebling of sick leave benefits and penalties owed if an employee is also retaliated against in connection with seeking to enforce his or her rights; and
- Compensating employees for their attorneys' fees and costs incurred in enforcing their rights under the Ordinances.

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