

Insights, News & Events

NEW YORK LEGISLATURE PASSES BILL GRANTING PAID LEAVE FOR EMPLOYEES RECEIVING COVID-19 VACCINE

Insights

Mar 4, 2021

New York employees are likely to soon receive paid leave to take their COVID-19 vaccination. One month after the New York State Assembly passed the bill, the New York State Senate unanimously voted 62-0 on March 1 to [grant both private and public employees up to four hours of paid leave per injection to receive the COVID-19 vaccine](#). In his 2021 State of the State speech and budget, Governor Cuomo indicated support for paid leave for COVID-19 vaccinations, so New York employers should be prepared for the impending effectiveness of this legislation.

[Ed. Note: The governor signed this bill into law on March 12 and it takes effect immediately.]

What Does The Legislation Entail?

The bill amends the New York Labor Law (NYLL) to add Section 196-C, requiring that all private employers provide their employees with a "sufficient period of time," up to four hours, of paid leave to receive the COVID-19 vaccine. The leave is four hours *per injection*, meaning employees who receive a two-dose vaccine can potentially be entitled to up to eight hours of paid time off under the law. The leave cannot be charged against any other leave to which the employee is entitled, including the recently enacted [paid sick leave requirements](#).

The entire period of leave must be provided at an employee's regular rate of pay. The requirements of the law, however, can be waived by a collective bargaining agreement if it explicitly references NYLL 196-C. The bill

Related People



Amanda M. Blair

Associate

[212.899.9989](#)



Melissa Camire

Partner

[212.899.9965](#)

also forbids an employer from discriminating against, retaliating against, or interfering with an employee exercising their rights under the law, including requesting paid leave to be vaccinated.

The bill is short on detail and does not provide insight on what are likely to be some common employer questions, such as:

- whether employers can ask for proof of vaccination and what that proof could be;
- whether employees can use this paid leave for recovery from any side effects; and
- whether employers can exert any control over when an employee schedules a vaccine appointment.

As it has with other COVID-related actions and with the new paid sick leave law, the State may issue guidance or FAQs. Given the purpose of the law is to promote vaccination, it is likely that the law will be interpreted through that prism to provide maximum encouragement for employees to get vaccinated. Until any guidance is issued, employers can and should continue to rely on current guidance, such as that issued by the [EEOC](#).

Lastly, the bill amends the Civil Service Law to provide similar benefits to public employees.

What Happens Next?

The bill will be sent to Governor Cuomo for his signature or veto, which should occur soon. The law takes effect *immediately*, so employers should be prepared to have systems in place to deal with requests for leave and pay appropriate benefits immediately. This could include updating handbook and other leave policies, or even proactively alerting employees to their right to paid leave.

[Ed. Note: The governor signed this bill into law on March 12 and it takes effect immediately.]

The law will expire and will be deemed repealed on December 31, 2022, so employers should be prepared to comply with the requirements of the law for the next 21 months, which could include paid time off for “booster” shots down the road.



Seth D. Kaufman

Partner

212.899.9975

Service Focus

Counseling and Advice

Employee Leaves and Accommodations

Workplace Safety

Related Offices

New York

We will continue to monitor developments impacting New York employers, so make sure you are subscribed to [Fisher Phillips' Alert System](#) to get the most up-to-date information. If you have questions about how to ensure that your vaccine policies comply with workplace and other applicable laws, visit our [Vaccine Resource Center for Employers](#) or contact any attorney in [our New York City office](#) or on our [FP Vaccine Subcommittee](#).

This Legal Alert provides an overview of developing workplace issues. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.