



Mayor Garcetti Signs Modified Los Angeles Ordinance Allowing Up To 80 Hours Of Supplemental COVID-19 Paid Sick Leave

Insights

4.08.20

Los Angeles Mayor Eric Garcetti just signed into law the City Council's proposed Supplemental Paid Sick Leave ordinance. He made some modifications to the original proposal passed by the City Council, which have been updated below. The ordinance provides up to 80 hours of supplemental paid sick leave to employees who work within the City of Los Angeles.

This ordinance, brought under an "urgency clause," is unique in that it goes into effect **immediately** upon publication. It will remain in effect until two calendar weeks after the expiration of the COVID-19 local emergency period. Notably, if a collective bargaining agreement is in place as of April 7, 2020 that does **not** address COVID-19 related sick leave, the employer must comply with the order until the agreement is amended to expressly waive the terms. No other employee waivers will be deemed valid.

The basic provisions of the ordinance are as follows:

Who Is Covered?

- **Employers** who have more than 500 employees within the City of Los Angeles or 2,000 or more employees within the United States.
- **Exceptions:** (1) **New businesses**—A business that started in or relocated into Los Angeles on or after September 4, 2019 through March 4, 2020 is exempt. The employer must not have been a business in the City for the 2018 tax year. Construction businesses and film producers are exempt from this exemption; (2) **Government agencies** working in the course and scope of their public service employment; (3) **Closed businesses and organizations**—Any business or organization that was closed or not operating for 14 or more days due to an emergency order due to COVID-19 or provided at least 14 days of leave shall be exempt.
- **Employees** who were employed from February 3, 2020 to March 4, 2020. There is a presumption that an individual is an employee. An employer must rebut this presumption in order to show an individual is actually an independent contractor.
- **Exceptions:** Employers of: (1) **healthcare providers**, including contract workers who work at a licensed health facility; (2) **first responders** (including gang and crisis intervention workers, public health workers, emergency management personnel, emergency dispatchers, law

enforcement personnel, and related contractors and others working for emergency services providers) are not covered under the ordinance; and (3) **global parcel delivery services**.

How Are Total Hours/Pay Calculated?

- **Full-time employees** (those who work more than 40 hours/week) are eligible to receive up to 80 hours of supplemental paid sick leave calculated based on the employee's average two week pay from February 3, 2020 to March 4, 2020.
- **Part-time employees** (those who work fewer than 40 hours/week) are eligible to receive no greater than the employee's average two week pay over February 3, 2020 to March 4, 2020.

The amount an employee can receive is capped at \$511 per day or \$5,110 total.

What Can Supplemental Paid Sick Leave Be Used For?

Supplemental paid sick leave must be granted upon oral or written request and no doctor's note or other documentation is required. Uses are limited to taking time off:

1. Because healthcare provider requires or recommends the employee isolate or self-quarantine;
2. Because the employee is 65 or has a health condition such as heart disease, asthma, lung disease, diabetes, kidney disease, or weakened immune system;
3. To care for a family member who is not sick but who public health officials or healthcare providers have required or recommended isolation or self-quarantine; or
4. To provide care for a family member whose senior care provider or school or childcare provider (children under 18) closes in response to public health or other public official's recommendation.

Are There Any Exemptions And/Or Offsets?

- Supplemental paid sick leave under this ordinance runs concurrently with paid sick leave under the Families First Coronavirus Response Act (FCCRA). However, supplemental paid sick leave under this ordinance is **in addition to** California/Los Angeles-mandated paid sick leave.
- **Offsets:**
 - If an employer has already provided paid leave since March 4, 2020 for COVID-19 related purposes, any hour will be offset against the 80-hour requirement. For example, if an employer has already provided an employee 5 hours of paid leave for COVID-19 purposes post-March 4, 2020, the employee would only be obligated to provide 75 hours to a full-time employee under this ordinance.
 - Alternatively, if an employer has a paid leave or paid time off policy that provides a minimum of 160 hours of paid leave annually, the employer is exempt from this new leave.

What Are The Penalties For Noncompliance?

The bill clearly states that employers cannot retaliate against employees who request and/or take supplemental paid sick leave. Additionally, employees can bring actions against their employer in

supplemental paid sick leave. Additionally, employees can bring actions against their employer in the State of California and be awarded:

1. Reinstatement, if they were terminated;
2. Backpay and supplemental paid sick leave that was unlawfully withheld (calculated at the employee's average rate of pay); and
3. Other legal or equitable relief the court may deem appropriate.

If an employee prevails against an employer, the court can also award attorneys' fees and costs.

Conclusion

We will continue to monitor the rapidly developing COVID-19 situation and provide updates as appropriate. Make sure you are subscribed to [Fisher Phillips' Alert System](#) to get the most up-to-date information. For further information, contact your Fisher Phillips attorney, any attorney in our [Los Angeles office](#), or [any member of our COVID-19 Taskforce](#). You can also review our nationwide [Comprehensive and Updated FAQs for Employers on the COVID-19 Coronavirus](#) and our [FP Resource Center For Employers](#), maintained by our Taskforce.

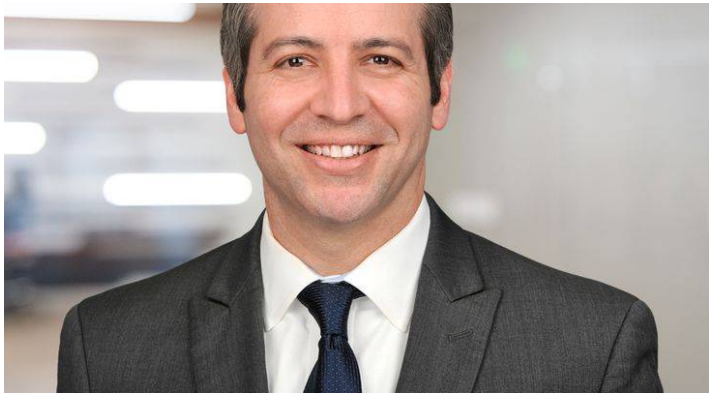
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