

PHILADELPHIA PASSES LAW REQUIRING PAID SICK LEAVE FOR EMPLOYEES

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On February 12, 2015 (effective as of May, 2015) Mayor Michael Nutter signed into law the “Promoting Healthy Families and Workplace Ordinance” (the “Ordinance”), which requires certain employers to provide paid sick leave to certain employees. Employers that already offer their employees paid time off probably will not have to provide additional sick leave, but should review their policies to ensure compliance with Ordinance. Employers will also have to ensure that their payroll systems properly track the accrual and use of sick leave. The Ordinance also requires a Notice to be posted and included in handbooks.

To Whom Does The Ordinance Apply?

- The Ordinance requires Employers that employ 10 or more Employees within the geographic boundaries of the City for at least 40 hours in a year to provide paid sick leave. *As such, this could apply to Employers based outside of the City whose employees regularly work in the City.*

- Employers with fewer than 10 Employees are required to provide unpaid sick leave (this means that even small employers face potential liability for failing to allow employees sick leave).

- The Ordinance excludes independent contractors, seasonal workers, adjunct professors, employees hired for a term of less than six months, interns, pool employees, state and federal employees and employees covered by a bona fide collective bargaining agreement from the definition of Employee.

Accrual Of Sick Leave Under The Ordinance.

- The Ordinance requires Employers to provide one hour of paid sick leave for every 40 hours worked (or unpaid sick leave for small Employers) within the City.

- Employers may limit the maximum amount of sick leave taken for a particular year to 40 hours, but Employers must permit employees to carry forward any accrued, unused sick leave.

- Employees will begin accruing sick leave on either May or their date of hire, whichever comes first, and may begin using the leave on the 90th calendar day after that date.

- Employers are not required to pay employees for unused sick leave upon separation from employment.

What Constitutes Sick Leave?

- Sick Leave may be used for an employee’s mental or physical illness, care of a family member’s illness, preventive medical care for an employee or his or her family member, or absence due to domestic abuse, sexual assault or stalking. *The definition of “family member” under the Ordinance is more wide-ranging than the definition under the FMLA, so sick leave may be protected even if not FMLA-protected.*

- Employees are expected to provide notice in advance of the leave when practicable and to make reasonable efforts not to unduly disrupt an Employer’s business operations.

- After more than two consecutive days of leave, an Employer may require a doctor’s note, but the Employer may not require documentation of the nature of the medical condition.

- The Employer may not require an employee to find their own replacement and may not discipline the employee for utilizing the sick leave.

What If I Already Provide Paid Time Off To My Employees?

- The Employer does not have to provide additional leave if the existing paid leave policy is sufficient to meet or exceed the accrual requirements of the Ordinance and the paid leave may be used for the same purposes, under the same conditions.

- Leave offered under an Employer’s policy may include vacation days, sick days, short-term disability benefits, floating holidays, parental leave, personal days and/or paid time off.

- Employers should not simply assume that their current policy complies with the requirements of the Ordinance. Review of the current policy in conjunction with the Ordinance is important. *Consult an attorney. Our attorneys are available to assist you with this review.*