

EXPECT THE UNEXPECTED

“Just the FAQ’s” – New Jersey Paid Sick Leave Act

1. What is the New Jersey Paid Sick Leave Act (the “Sick Leave Act”)?

The Act is a new law that was adopted in New Jersey, effective as of October 29, 2018, which mandates paid sick leave for all New Jersey workers.

2. Who is impacted by the new Sick Leave Act?

The Sick Leave Act applies to all Employers that maintain workers in New Jersey, even small businesses, and employers that are located outside the State. However, the law does not apply to government and union workers that already have mandatory sick leave.

3. How many sick days are employers required to provide under the Act?

Employers must provide employees with 1 hour of sick leave for every 30 hours worked, up to 40 hours per benefit year.

4. Does the Act apply to part-time employees?

Yes, the Act applies to part-time, temporary, seasonal, student employees, and other non-full-time workers.

5. Does the Act require payment or carry-over of sick time at year-end?

Yes, the Act requires Employers to carry-over accrued and unused sick time at the end of each benefit year; otherwise, Employers must pay employees for the unused time. However, Employers are not required to allow employees to use or accrue more than 40 hours of sick time per benefit year. Notably, there is a disconnect between the carry-over option and the usage cap that the State has yet to clarify.

6. Does the Act prescribe other details regarding the manner and means in which employers must implement the Act?

Yes, the Act is very detailed, and Employers are advised to review the law and regulations closely. The following are just a few examples of the additional terms:

- Employers must permit employees to use sick leave for a broad range of activities that businesses have not traditionally recognized as justifying a medical absence, including care of non-family members, court proceedings in matters of assault and violence, and school meetings regarding a child’s health or disability.
- Employers may not require employees to find a replacement in the event of an illness.
- Employers may not ask an employee for medical documentation if the employee takes sick leave for less than 3 days.
- The Act prescribes recordkeeping and benefit year change notice requirements.
- The Act advises of certain discretionary items employers may consider, such as the minimum amount of time employees are permitted to take for each sick leave absence, the designation of “blackout dates” during which employees may not schedule foreseeable sick leave absences, and the alteration of Paid Time Off policies to comply with the Act’s minimum standards.

7. What steps should employers take to comply with the Act?

In addition to reviewing the Sick Leave Act and the regulations in detail, employers may find that designating sick leave as a separate category of paid time off, and issuing the full complement of sick time to employees at the beginning of each calendar year, will ease the tracking and administrative burden of the law. As with any new legislation, we will be following early caselaw and continued guidance from the State regarding the means by which employers may ensure compliance with the Act.

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