



Arizona Paid Sick Leave What you need to know



May 24th 2016 Board Meeting Agenda

Previous to Proposition 206

No Arizona requirement for employers to provide any type of paid sick leave to employees

Passage of Proposition 206

On November 8, 2016 Arizona voters passed the new minimum wage and requirements for paid sick leave for all employees



Minimum wage increase

Proposition 206 increased the minimum wage in Arizona according to the following schedule:

\$10.00 per hour effective January 1, 2017

\$10.50 per hour effective January 1, 2018

\$11.00 per hour effective January 1, 2019

\$12.00 per hour effective January 1, 2020



Paid Sick Leave

Proposition 206 requires all Private and Municipal employers to provide “*all employees*” at least 40 hours of paid sick leave per year to care for themselves or a family member.

Employers with fewer than 15 employees are required to provide 24 hours of paid sick leave.



Paid Sick Leave

Effective date:

July 1, 2017

What is paid sick leave (PSL)?

Paid sick leave is defined as “time that is compensated at the same hourly rate and with the same benefits including health care benefits as the employee earns during hours worked.”



Who is covered

All full time, part-time, temporary and seasonal workers are entitled to accrued paid sick leave

Any person who is or was employed by an employer with the exception for those working for a parent sibling or babysitter. Recipients of public benefits engaged in work activity as a condition of receiving public assistance are included.

There are no exceptions for small businesses



Who is “not” covered

Independent contractors.

State of Arizona or the United States employees



Definition of who is covered

Family members

Proposition 206 covers an employee's time off to care for or obtain services for a family member which is defined under the law as:

A biological, adopted or foster child, step child or legal ward

A child of a domestic partner or an individual to who the employee stood *in loco parentis*.

A biological, foster, stepparent or adoptive parent or legal guardian of an employee or an employee's spouse or domestic partner or a person who stood *in loco parentis* when the employee's spouse or domestic partner was a minor child



Definition of who is covered

Family Member

A spouse or a registered domestic partner

A grandparent, grandchild or sibling (whether biological, foster, adoptive or step) of the employee or the employee's spouse or domestic partner

Any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship including an aunt or uncle



Accruals

Rate

One hour for every 30 hours worked

Employers with 15+ employees the accrual is capped at 40 hours per year

If the employer has 15 or less employees the accrual is capped at 24 hours per year

Definition of a “Year”

The law defines a year as “a regular and consecutive 12 month period as determined by the employer.”



Accruals

Exempt Employees under the FLSA

Presumed to work 40 hours per week for accrual purposes

For weeks in which they work less than 40 hours, their paid sick leave accrues based on the actual number of hours worked.

Loans

An employer may “load” paid sick leave to an employee in advance of the employee’s earning the leave



When is it appropriate for an employee to use Paid Sick Leave?

An employee's mental or physical illness, injury or health condition, an employee's need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition, need for a medical diagnosis or an employee's need for preventive medical care.

Care of a family member with a mental or physical illness, injury or health condition; care of a family member who needs medical diagnosis, care or treatment of a mental or physical illness injury or health condition, care of a family member who needs preventive care.



When is it appropriate for an employee to use Paid Sick Leave continued

Closure of the employee's place of business by order of a public health official or need to care for a child whose school or place of care has been closed by order of a public health official

Care for oneself or family member when it has been determined by health authorities or a health care provider that the employee's or family member's presence in the community may jeopardize the health of other because of their exposure to a communicable disease



When is it appropriate for an employee to use Paid Sick Leave continued

Absence due to domestic violence, sexual violence, abuse or stalking, provided the leave is a to allow the employee to obtain for the employee or the employee family.

Medical attention needed to recover from injury or disability caused by domestic violence, sexual violence abuse or stalking.

Services from a domestic or sexual violence program or victims services organization

Psychological or other counseling

Relocation or taking steps to secure an existing home due to the domestic violence, sexual violence, abuse or stalking

Legal services related to the domestic violence, sexual violence abuse or stalking.



Can I Verify?

Yes, but employers may only request verification or reasonable documentation that the leave is being used for a permissible purpose when the employee takes three or more days of consecutive paid sick leave.

Reasonable documentation is defined in the law as a note signed by a health care professional.

For paid sick leave taken for domestic violence reasons, a police report, court order, signed statement from a domestic violence services organization, signed statement from an attorney, clergy member, doctor or even the employee's own written statement is considered reasonable verifying documentation.



Carryover

Unused accrued paid sick leave carries over from one year to the next, but will not affect the minimum annual accrual and use caps during the following year

The employer may also choose to pay out unused accrued paid sick leave in lieu of carryover to the following year provided that the employee is given an amount of earned paid sick time at the beginning of the following year that meets or exceeds the requirements of the paid sick leave law and that is available for the employee's immediate use



What happens to accrued PSL at termination?

Employers are not required to pay unused accrued paid sick leave to employees who employment terminates for any reason including involuntary termination, voluntary resignation, layoff or death

All accrued paid sick leave must be reinstated if the employer rehires the employee within nine months.



Notice Requirements

Employers:

Employees are entitled to earn paid sick leave and the amount of earned paid sick leave

The terms of its use guaranteed under the act

The retaliation against employees who request or used earned paid sick leave is prohibited

That each employee has the right to file a complaint of earned paid sick leave is denied by the employer or the employee is subject to retaliation for requesting or taking earned paid sick leave and the contact information for the Industrial Commission of Arizona



Notice requirements

Employees

An employee's request for paid sick leave may be made orally, in writing, by electronic means or by any other means acceptable to the employer.

When possible the employer can require the employee's request to include the expected duration of the absence



Notice requirements

Employees

Foreseeable Leave

If the need for leave is foreseeable the employee must make a good faith effort to provide notice to the employer in advance of the leave and make a reasonable effort to schedule time off in a manner that does not unduly disrupt the operations of the employer.

Unforeseeable Leave

If the need for leave is unforeseeable no prior notice is required unless the employer has a written policy containing procedure for providing notice



Your Current paid time off policy (PTO)

Employees with existing paid time off policies that meet or exceed the benefits provided under the PSL law are “not Required” to provide additional paid sick time



Miscellaneous Provisions

Confidentiality and Nondisclosure

Employees are prohibited from requiring employees to disclose details of the nature of the employee's (or family member's) health condition or details relating to domestic violence, sexual violence, abuse or stalking as a condition of providing earned paid sick leave

Also, if employers possess such health or other paid sick leave qualifying information they must treat it as confidential and may only disclose it to the affected employee or with the affected employee's permission.



Miscellaneous Provisions

Recordkeeping

Employers must track employee's accrual and usage of paid sick leave and must maintain payroll records showing earned paid sick time paid to all employees for a period of four years. Failure to maintain such records creates a rebuttable presumption that the employer did not pay earned paid sick leave.

Employers must either recorded in, or attach to, employees' paychecks the amount of paid sick leave the employees have available, the amount of paid sick leave used and the amount of pay received as an earned paid sick leave.



Miscellaneous Provisions

Collective Bargaining Agreements

The paid sick leave law does not apply to employers covered by a collective bargaining agreement (CBA) that is in effect on July 1, 2017 (the effective date) until the CBA expires

For CBA's entered into after July 1, 2017, the paid sick leave law's requirement can be waived by the parties if the paid sick leave law is expressly waived by clear and unambiguous language



Enforcement

Non-discrimination and Non-retaliation

Employers are prohibited from interfering with, restraining or denying the exercise of or the attempt to exercise any right protected under the paid sick leave law.

An employer cannot count absences covered by paid sick leave against the employee for attendance control purposes.



Enforcement

The Industrial Commission of Arizona enforces the Act

Penalties

Any employer who fails to pay earned paid sick leave shall be required to pay the employee the balance of the earned paid sick leave owed, including interest and an additional amount equal to twice the underpaid earned paid sick leave.

Any Employer who violates recordkeeping, posting or other requirements the Commission may establish will be subject to a civil penalty of a least \$250 for the first violation and at least \$1,000 for each subsequent or willful violation and may be subject to special monitoring and inspections.

ARIZONA FOOD

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MARKETING ALLIANCE

Thank you