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Philadelphia Latest City to Mandate Paid Sick Leave

Paid sick leave for all employees continues to be the trend across the nation, with calls for new laws coming straight from Washington. Philadelphia has now joined the ranks of the 17 cities, including New York, Trenton and Portland, and the three states of California, Connecticut and Massachusetts in mandating paid sick leave for employees.

Starting on May 13, 2015, businesses must allow each employee to begin accruing one hour of paid sick leave for every 40 hours worked in Philadelphia, up to a maximum of 40 hours of sick leave per calendar year. Businesses with 10 or more employees must pay the employee while using sick leave, while smaller businesses must provide only unpaid leave. Under the law, accrued sick leave — whether paid or unpaid — can be taken by an employee after 90 days of employment and thereafter as it is accrued.

Any company with employees who work in Philadelphia should take the following steps now to address the new law available at <http://www.stradley.com/~media/Files/Publications/2015/Bill%20No%2014102601%20As%20Amended%201.PDF>.

- Determine how the law applies to the company. If the company has 10 or more employees in Philadelphia for at least 40 weeks in a calendar year and is not a federal or state employer, the law will require paid sick leave. However, a company with fewer than 10 employees in Philadelphia but with other employees outside of the city should review the new law with legal counsel to discuss whether employees working within Philadelphia may still be eligible for paid sick leave. For those employers with fewer than 10 employees in Philadelphia, unpaid sick leave may still be required for those employees working in Philadelphia. It should be noted that Philadelphia already requires certain city contractors to provide paid sick leave to their employees.
- Review the workforce to determine which employees will be eligible for paid sick leave. The new law applies to both full-time and part-time employees, but not to other workers such as independent contractors, seasonal workers, employees hired for a term of less than six months, interns, pool employees, and employees covered by a bona fide collective bargaining agreement.
- Consider how to track time worked in Philadelphia. The amount of sick leave to which an employee is entitled is based on hours of work "in Philadelphia," so additional time tracking methods may need to be

considered, particularly for employees who work both in the city and elsewhere. Further, the law presumes that any employee exempt from overtime works 40 hours in each workweek for purposes of sick leave accrual, unless their normal workweek is less than 40 hours. The company should consult with the appropriate human resources manager or legal counsel for further guidance.

- Employers who already offer paid time off to employees should review their policies to confirm compliance with the new law. For example, while a company’s current paid time off policy may exclude part-time employees, part-time employees will be eligible for paid

sick leave under the new law. Where the employer provides a paid time off policy that does not differentiate between sick time and personal time, revisions to the policy may be necessary to clarify that the time off already provided may be used for purposes of sick leave under the Philadelphia law. Carryover of unused leave may need to be addressed as well, as the new law requires carryover of sick time in certain instances. The new law also allows employees to use paid sick leave for absences due to domestic violence, sexual assault or stalking, which may not already qualify for an absence under the company’s existing sick leave or paid time off policy.

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