

## Los Angeles Supplemental Paid Sick Leave Ordinance Allows Up To 80 Hours Of COVID-19 Paid Sick Leave

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The L.A. City Council just passed a COVID-19 Supplemental Paid Sick Leave law which provides up to 80 hours of supplemental paid sick leave to employees who work within the City of Los Angeles. This ordinance hasn't been signed by the Mayor yet but it is being brought under an "urgency clause" and will go into effect **immediately** upon being signed by him and publication. It will remain in effect until December 31, 2020 unless the Los Angeles City Council decides to extend it. Notably, employees cannot waive their supplemental paid sick leave protections unless they are covered by a collective bargaining agreement that is bilaterally modified.

The basic provisions of the ordinance are as follows:

### Who Is Covered?

- **Employers** who have more than 500 employees nationally.
- **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:** Healthcare providers or first responders (peace officer, firefighter, paramedic, emergency medical technician, public safety dispatcher or safety telecommunicator, emergency response communication employee, rescue service personnel) are not covered under the ordinance.

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### 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.



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### 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 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.

### What About Employers Who Have Temporarily Closed Or Laid-Off Employees Since March 4, 2020?

The bill is silent as to the responsibilities of employers who have temporarily closed or laid-off employees since March 4, 2020 (the end of the time period for calculating payment). Therefore, there is no express exemption for these employers.

### 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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*This Legal Alert provides an overview of a specific city law. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.*

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