

AB 1867: CALIFORNIA'S COVID-19 SUPPLEMENTAL PAID SICK LEAVE FOR ALL

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On September 9, 2020, Governor Newsom signed into law AB 1867, which requires private employers with 500 or more employees nationwide to provide COVID-19-related supplemental paid sick leave to their California employees.

The law goes into effect on September 19, 2020. It will remain in effect until December 31, 2020, or the expiration of any federal extension of the Families First Coronavirus Response Act (FFCRA).

FOR WHAT REASONS DOES AN EMPLOYER HAVE TO GIVE EMPLOYEES LEAVE UNDER THE NEW LAW?

An employee qualifies for this new leave only if they are unable to work due to one of the following reasons:

1. the employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19;
2. the employee is advised by a health care provider to self-quarantine or self-isolate due to concerns related to COVID-19; or
3. the employee is prohibited from working by his or her employer due to health concerns related to the potential transmission of COVID-19.

These reasons are somewhat narrower than permissible reasons for leave under the federal FFCRA.

WHAT IS THE AMOUNT OF LEAVE UNDER THE NEW LAW?

An eligible employee is entitled to 80 hours of COVID-19 supplemental paid sick leave if the employee works “full time” or was scheduled to work or did work on average at least 40 hours per week in the two weeks preceding the date of taking this leave.

For non-“full-time” employees with a normal weekly schedule, they are entitled to the total number of hours of leave that they are normally scheduled to work over two weeks.

For employees who work a variable number of hours (and have worked more than 14 days for the employer), they are entitled to 14 times the average number of hours they worked each day in the six months preceding the date they took COVID-19 supplemental paid sick leave. If an employee worked for a covered employer for 14 days or fewer, the employee is entitled to COVID-19 supplemental paid sick leave equal to the total number of hours worked for that employer.

HOW MUCH MUST AN EMPLOYER PAY FOR THE NEW COVID-19 LEAVE?

A covered employer must pay the COVID-19 supplemental paid sick leave at an hourly rate of the highest of the following:

- The employee’s regular rate of pay for the last pay period;
- The state minimum wage; or
- The local minimum wage.

However, like the federal law, employers are not required to pay any more than \$511 per day or \$5,110 total.

The Labor Commissioners’ office of the California Department of Industrial Relations has published frequently asked questions on AB 1867, a link to which is here: <https://www.dir.ca.gov/dlse/FAQ-for-PSL.html> ■

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