



Los Angeles: COVID-19 Supplemental Paid Sick Leave Ordinance Enacted

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On April 10, 2020, the City of Los Angeles published Ordinance No. 186590 to require certain employers to provide supplemental paid sick leave to qualifying employees when they are absent from work for reasons related to the COVID-19 pandemic. The ordinance became effective on April 10, 2020 and remains in effect until December 31, 2020 (unless the City takes action to extend it).

■ Who is Subject to the Ordinance?

Employers are subject to the ordinance if they have 500 or more employees nationally. The ordinance does not by its terms exclude employers that are subject to the paid sick leave and paid family and medical leave provisions of the Families First Coronavirus Response Act (which generally applies to employers with fewer than 500 employees). It is possible for an employer to be subject to both the ordinance and the Families First Act (for example, if a corporation has fewer than 500 employees but belongs to a controlled group of corporations that in aggregate has 500 or more employees nationwide).

The ordinance defines the term “employer” to mean any person or entity that directly or indirectly or through an agent or any other person (including through the services of a temporary service or staffing agency or similar entity) employs or exercises control over the wages, hours or working conditions of an employee. The ordinance states that a worker is presumed to be an employee, and the employer has the burden to demonstrate that a worker is a bona fide independent contractor and not an employee.

■ Which Employees Qualify?

To qualify for supplemental paid sick leave from a particular employer under the ordinance, an employee must meet two requirements: (1) The employee must have been employed by the employer from February 3, 2020 through March 4, 2020, and (2) the employee must perform work for the employer within the geographic boundaries of the City of Los Angeles. For example, an ongoing employee who normally works at the employer’s place of business in Pasadena, but who teleworks from his/her home within the City of Los Angeles during the COVID-19 pandemic, might qualify for supplemental paid sick leave under the ordinance.

■ Supplemental Paid Sick Leave

To receive supplemental paid sick leave under the ordinance, an employee must make an oral or written request to the employer that he/she is taking time off from work because:

- a public health official or healthcare provider requires or recommends that the employee isolate or self-quarantine to prevent the spread of COVID-19; or
- the employee is at least age 65 or has a health condition (such as heart disease, asthma, lung disease, diabetes, kidney disease, or weakened immune system); or
- the employee needs to care for a family member who is not sick, in a situation where public health officials or healthcare providers have required or recommended isolation or self-quarantine for the family member; or
- the employee needs to provide care for a family member whose senior care provider (or school or childcare provider in the case of a child under age 18) temporarily ceases operations in response to a public health or other public official's recommendation.

Employers are prohibited by the ordinance from requiring a doctor's note or other documentation for the use of supplemental paid sick leave.

Supplemental paid sick leave is calculated under the ordinance as follows (subject to the limitations set forth in the bullet points below):

Employees who work a minimum of 40 hours per week or is classified as full-time by the employer: 80 hours of supplemental paid sick leave, calculated based on the employee's average two-week pay over the period of February 3, 2020 through March 4, 2020.

Employees who work less than 40 hours per week and are not classified as full-time by the employer: supplemental paid sick leave in an amount no greater than the employee's average two-week pay over the period of February 3, 2020 through March 4, 2020.

The leave under the ordinance is subject to the following important limitations:

- Supplemental paid sick leave cannot exceed \$511 per day and \$5,110 in the aggregate with respect to any employee.
- The employer's obligation to provide 80 hours of supplemental paid sick leave to an employee under the ordinance is reduced for every hour that the employer allowed the employee to take paid leave (not including previously accrued hours) on or after March 4, 2020 for any of the four reasons specified above, in an amount equal to or greater than the supplemental paid sick leave under the ordinance.
- Employees of joint employers are only entitled to the total aggregate amount of supplemental paid sick leave specified for employees of one employer.

■ Exemption

The ordinance states that an employer of an employee who is a "health care provider" (as defined by California Government Code section 12945.2) or "first responder" is exempt from the ordinance.

For purposes of this exemption, the ordinance states that a "first responder" is an employee of a state or local public agency who provides emergency response services, including a peace officer, a firefighter, a paramedic, an emergency medical technician, a public safety dispatcher or safety telecommunicator, an emergency response communication employee, or rescue service personnel.

It is not clear whether the ordinance's exemption applies to the employer or is limited to the employees who are health care providers or first responders.

We are monitoring developments around the COVID-19 and will continue to update you.