

County of Los Angeles Enacts COVID-19 Supplemental Paid Sick Leave Ordinance

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On April 28, 2020, the Board of Supervisors for the County of Los Angeles voted to approve an interim urgency ordinance that requires 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 City of Los Angeles previously passed a similar ordinance, but the County ordinance expands the coverage for supplemental paid sick leave to employees outside the City's geographic boundaries.

The ordinance became effective on April 28, 2020 and remains in effect until December 31, 2020 (unless the Board of Supervisors takes action to extend it).

■ Employers Subject to the Ordinance

Employers are subject to the ordinance if they have 500 or more employees nationally. However, the ordinance does not apply to employers that are federal, state or local government agencies.

■ Qualifying Employees

To qualify for supplemental paid sick leave under the ordinance, an employee must meet the following requirements:

- a. The employee was employed by the employer on April 28, 2020 (i.e. the effective date of the ordinance); and
- b. The employee performs work for the employer within an unincorporated area of the County of Los Angeles (refer below for a link to a listing of these areas); and
- c. The employee is not a food sector worker, as defined in the California Governor's Executive Order N-51-20.

In addition, certain employees may be exempt from receiving supplemental paid sick leave under the ordinance, as discussed in the section on "Exemptions" below.

■ Supplemental Paid Sick Leave

Employers are required under the ordinance to begin providing supplemental paid sick leave to qualifying employees on March 31, 2020.

To receive supplemental paid sick leave under the ordinance, an employee must make a written request to the employer (for example, via email or text) that the employee cannot work or telework because of one of the following reasons:

1. 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
2. The employee is subject to a federal, state or local quarantine or isolation order relating to COVID-19 (for example, 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
3. The employee needs to care for a family member who is subject to a federal, state or local quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine related to COVID-19; or
4. The employee needs time off work because the employee needs to provide care for a family member whose senior care provider (or school or childcare provider) ceases operations in response to a public health or other public official's recommendation.

For purposes of the ordinance, a "family member" means the employee's spouse, child (including a biological, adopted or foster child, stepchild, legal ward, and certain other individuals), and parent (including a biological, foster or adoptive parent, legal guardian, and certain other individuals).

Employers may require documentation for the use of supplemental paid sick leave as allowed under the Families First Coronavirus Response Act and related rules and regulations from the U.S. Department of Labor. However, an employee may begin using supplemental paid sick leave before obtaining the requested documentation.

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

Employee	Supplemental Paid Sick Leave
An employee who works at least 40 hours per week or is classified as a full-time employee by the employer	80 hours of supplemental paid sick leave, calculated based on the employee's highest average two-week pay over the period of January 1, 2020 through April 28, 2020
An employee who works less than 40 hours per week and is not classified as a full-time employee by the employer	An amount no greater than the employee's average two-week pay over the period of January 1, 2020 through April 28, 2020

Supplemental paid sick 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 supplemental paid sick leave to an employee under the ordinance is reduced for every hour that the employer allowed the employee to take "Voluntary COVID-19 Leave" on or after March 31, 2020 for any of the four reasons specified above, in an amount equal to or greater than the supplemental paid sick leave required under the ordinance. "Voluntary COVID-19 Leave" is additional paid leave for COVID-19 related purposes that is above and beyond an employee's regular or previously accrued leaves (such as sick or personal leave).
- Employees of joint employers are only entitled to the total aggregate amount of supplemental paid sick leave specified for employees of one employer.

An employer may not require an employee to use any other paid or unpaid leave, paid time off, or vacation time provided by the employer, before the employee uses supplemental paid sick leave (or in lieu of supplemental paid sick leave) under the ordinance. In addition, the total number of hours of supplemental paid sick leave that an employee is entitled to receive under the ordinance is in addition to any paid sick leave available to the employee under California Labor Code section 246.

■ Exemptions

An employer may exclude an employee from receiving supplemental paid sick leave under the ordinance if the employee is an “emergency responder” or a “health care provider.”

An “emergency responder” is an employee who provides emergency response services, including a peace officer, firefighter, paramedic, emergency medical technician, public safety dispatcher or safety telecommunicator, emergency response communication employee, rescue service personnel; and employees included in the definition of emergency responder in regulations issued by the U.S. Department of Labor.

A “health care provider” is an employee who provides emergency response services, including medical professionals; employees needed to keep hospitals and similar health care facilities well supplied and operational; employees involved in research, development, and production of equipment, drugs, vaccines, and other items needed to combat the COVID-19 public health emergency; and employees included in the definition of health care provider in regulations issued by the U.S. Department of Labor.

