

KD Alert: Philadelphia's Employers May Soon Need a Check-Up with the Passage of the Philadelphia Sick Leave Ordinance

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On February 12, 2015, Philadelphia Mayor Michael Nutter signed legislation requiring certain employers located in the City of Philadelphia to provide up to five days of paid sick leave each calendar year to their employees. The ordinance, entitled, "Promoting Healthy Families and Workplaces," goes into effect on May 13, 2015.

Under the ordinance, Philadelphia employers with 10 or more employees (full-time, part-time, and temporary employees count towards the total) must provide at least one hour of paid sick leave for every 40 hours worked, up to a maximum of 40 paid sick leave hours per calendar year, to employees who work within the geographic boundaries of the City of Philadelphia. Employers are not required to provide paid sick time to independent contractors, seasonal workers, adjunct professors, employees hired for a term of less than six months, interns, pool employees, state and federal employees, or employees covered by a bona fide collective bargaining agreement.

Employers that already provide employees with as much (or more) paid leave, and for the same purposes as provided by the ordinance, are not required to provide additional paid sick time. Paid leave can include vacation, short-term disability benefits, floating holidays, parental leave, personal days, or paid time off that may be used as sick time. Employers with fewer than 10 employees will be required to provide unpaid sick leave in accordance with the same calculations.

Employees may use their paid sick time for specified reasons, including for their own or a family member's (broadly defined): mental or physical illness, injury, or health condition; preventive medical care; or medical diagnosis, care, or treatment. Paid sick time may also be used for absences due to the employee's or family member's domestic abuse, sexual assault, or stalking. Employees begin to accrue paid sick time on the later of May 13, 2015 or first day of employment and may start using any earned paid sick time 90 days after accrual begins.

The ordinance recently hit a snag on April 14, 2015 when the Republican-dominated state Senate approved a bill that would invalidate the mandatory paid sick-leave law. The bill, which passed by 37-12, would effectively preempt local governments from requiring companies to provide workers with paid sick days. The measure's supporters state that they would prefer to have uniform rules across the state for businesses. It remains unclear when the House will take it up.

BOTTOM LINE: Though the final fate of the sick-leave law remains somewhat in limbo at the moment, Philadelphia employers ought to take preventive measures to ensure they will be in compliance should it become effective in just 2 short weeks. In addition to further recordkeeping requirements, Philadelphia employers will be required to update their employee handbooks and provide notification to employees of the new provisions by the ordinance's effective date. Noncompliance with the notice and posting requirements may result in a civil fine of up to \$100.00 for each separate offense.

KD provides employers with guidance in formulating and implementing employment practices and decisions to stay ahead of new and complex statutory regulations and to minimize their potential liability exposure. If you have questions pertaining to the Philadelphia Sick Leave Ordinance, need assistance with determining whether your organization is fully compliant with its requirements, or updating your current employee policies, please contact Philip R. Voluck, Esq. or Irina V. Rabovetsky, Esq. at 215-461-1100.