

KD Alert: The New Jersey Paid Sick Leave Act – What Employers Need To Know And How They Can Achieve Compliance

By Philip R. Voluck, Esq. and Marc B. Cytryn, Esq

On May 2, 2018, New Jersey Governor Phil Murphy signed into law the New Jersey Paid Sick Leave Act (the “Act”), which will require covered New Jersey employers to provide their employees with paid sick leave benefits, for the very first time. The Act will make New Jersey the 10th state, plus Washington D.C., to impose paid sick leave requirements upon employers. Needless to say, these new requirements will have a significant impact on many New Jersey employers, as well as an estimated 1.2 million employees, who were previously not entitled to any paid sick leave benefits.

Previous Requirements and the Act’s Coverage

Previously, New Jersey law did not require employers to provide employees with any paid sick leave, absent a written agreement or written policy that stated otherwise. As such, New Jersey employers were free to craft their own policies and to decide whether or not employees would receive paid sick leave, as well as how that paid sick leave would accrue and “carry over” from year-to-year, if at all. Those days will soon come to an end when the Act takes effect on October 29, 2018. The Act will apply to all New Jersey employers, regardless of their size. In fact, the only clear exemptions under the Act will be for: (1) *per diem* healthcare employees; (2) construction workers subject to collective bargaining agreements; and (3) public employees who already receive paid sick leave benefits.

New Requirements for Covered Employers

Under the Act, covered employers will need to provide their employees with at least one (1) hour of paid sick leave for every thirty (30) hours worked. Employees will also be permitted to accrue and “carry over” up to and including forty (40) hours of paid sick leave from one year to the next. That said, employers will still not be required to pay out any unused sick leave upon termination, absent a written agreement or policy that states otherwise. In addition to providing paid sick leave for their employees, covered employers will also need to conspicuously post a written Notice in their place(s) of business, which apprises employees of their right to paid sick leave. Further, covered employers must notify each current and new employee of their right to paid sick leave and provide each individual employee with a monthly statement showing the amount of their accrued paid sick leave.

Qualifying Purposes for Employee Use of Paid Sick Leave

In general, employees will be permitted to take paid sick leave under the Act for the following reasons:

1. diagnosis of, care for, treatment of, or recovery from their own mental or physical illness or a family member’s mental or physical illness;
2. time needed as a result of their status or a family member’s status as a victim of domestic or sexual violence;

3. when their workplace, school, or childcare is closed by order of a public official due to a public health concern; and
4. time needed to attend a school-related conference or meeting.

Under the Act, employees will be permitted to notify their employers as soon as practicable, once they become aware of their need for paid sick leave. Employers may require an employee to certify that they are taking paid sick leave for a “qualifying” purpose, but only if that employee requests more than three (3) days of consecutive leave.

Compliance with the Act and its Requirements for Paid Sick Leave

In anticipation of the Act taking effect on October 29, 2018, New Jersey employers should update their policies and employee handbooks to fully-comply with the Act’s new paid sick leave requirements and make sure that their human resources personnel are fully-aware of those requirements. Notably, Employers will not be required to provide employees with any additional paid sick leave benefits, if they already do so in a manner consistent with the Act. However, all employers should – at the very least – confirm that their current policies will comply with the Act, in order to prevent any potential issues down the road.

If you have any questions pertaining to New Jersey’s Paid Sick Leave Act or any assistance complying with the requirements of the Act, please contact Philip R. Voluck, Esq., Marc B. Cytryn, Esq. at 215-461-1100, or Anna María Tejada, Esq. at 201-707-8209.