

## Updates

April 09, 2020

Los Angeles Enacts A Supplemental Paid Sick Leave Ordinance in Response to COVID-19

### **Mayor Garcetti Issues Order Modifying Los Angeles' COVID-19 Supplemental Paid Leave Ordinance**

Los Angeles Mayor Eric Garcetti has modified the COVID-19 Supplemental Paid Sick Leave Ordinance that was previously passed and signed by the mayor by issuing a public order under City of Los Angeles Emergency Authority. The mayor's public order, issued under the emergency authority, will remain in effect until two weeks after the expiration of the local emergency period and is located [here](#). We will be publishing an update soon on the mayor's new order.

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The City of Los Angeles recently enacted a new ordinance called the COVID-19 Supplemental Paid Sick Leave Ordinance that applies to employers with 500 or more employees nationally. The ordinance can be found [here](#).

The ordinance becomes effective on April 10, 2020, and appears to work in conjunction with the federal Families First Coronavirus Response Act (FFCRA) and provides that an employee (defined as an individual who performs any work for his/her employer within the geographic boundaries of the City of Los Angeles) is entitled to supplemental paid sick leave. The ordinance goes into effect immediately upon publication and remains in effect until December 31, 2020, unless it is extended.

The supplemental paid sick leave is calculated by averaging two weeks of an employee's pay during the period between February 3, 2020, and March 4, 2020. Similar to the FFCRA, the cap for supplemental paid sick leave is \$511 per day and \$5,110 in the aggregate. An employer with 500 employees or more nationwide must provide supplemental paid sick leave when an employee requests it (orally or in writing) in the following instances:

1. The employee takes time off from work because a public health official or healthcare provider requires or recommends the employee isolate or self-quarantine to prevent the spread of COVID-19
2. The employee takes time off from work because the employee is at least 65 years old or has a health condition such as heart disease, asthma, lung disease, diabetes, kidney disease, or weakened immune system
3. The employee takes time off from work because the employee needs to care for a family member who is not sick but for whom public health officials or healthcare providers have required or recommended isolation or self-quarantine
4. The employee takes time off from work because he/she needs to provide care for a family member whose senior care provider or whose school or childcare provider (providing care for a child under 18 years of age) temporarily ceases operations in response to a public healthcare or other public official's recommendation

The ordinance provides an offset for employers who have already begun allowing employees to take paid leave on or after March 4, 2020, for any of the reasons provided in categories 1 through 4 above (related to COVID-19). The employer's obligation to provide 80 hours of supplemental paid sick leave is reduced for every hour of paid leave taken by the employee on or after March 2, 2020, in an amount equal to or greater than the average salary amounts previously detailed above (not including previously accrued hours).

There is a prohibition against employers discharging, reducing the compensation of, or otherwise discriminating against any employee for opposing any practice proscribed by the ordinance. These include but are not limited to, requesting to use or actually using supplemental paid sick leave, seeking to enforce his/her rights, or

participating in proceedings related to the ordinance. An employee cannot waive his/her individual rights under this ordinance.

There are exemptions to the Supplemental Paid Sick Leave Ordinance. The first applies to employers of employees who are first responders or healthcare providers as defined in the ordinance. The second applies in the case of a collective bargaining agreement (CBA) and provides that any or all provisions of the ordinance may be expressly waived in a CBA as long as the waiver is explicitly set forth within the agreement in clear and unambiguous terms.

The ordinance provides an enforcement mechanism allowing employees to bring claims for violation of the ordinance.

In light of this new ordinance, employers who have workers and/or a business in the city of Los Angeles should consult with experienced employment counsel to ensure they are in compliance.

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