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NEW CONNECTICUT LAW REGARDING PAID SICK LEAVE

A law mandating that employers provide paid sick leave to employees was just enacted in Connecticut. The law becomes effective January 1, 2012. It applies to certain employers employing fifty (50) or more employers in the State of Connecticut.

"Employees" are defined as "Any person engaged in service to an employer and the business of the employer, who has worked a minimum of five hundred and twenty (520) hours for the employer within the past twelve (12) months, and is paid on an hourly basis or not exempt from the minimum wage and overtime compensation requirements of the Fair Labor Standards Act of 1938 and the regulations promulgated thereunder." Service workers work in jobs set forth in one of sixty-eight (68) occupational code numbers or titles in the Federal Bureau of Labor Statistics Standard Occupational Classification System.

The law provides that paid sick leave will accrue beginning January 1, 2012 or for an employee hired after that date beginning on the employee's date of employment at a rate of one (1) hour of paid sick leave for each forty (40) hours worked by an employee and in one (1) hour increments up to a maximum of forty (40) hours per calendar year (five (5) work days). Each employee shall be entitled to carry over up to forty (40) unused accrued hours of paid sick leave from the current calendar year to the following calendar year. However, the employee will not be entitled to use more than the maximum number of accrued hours in any year.

There is a six hundred and eighty (680) hour waiting period from January 1, 2012 before use of accrued sick leave is permissible for employees hired before January 1, 2012. For employees hired after January 1, 2012, the waiting period runs from date of hire.

An employer can comply with this law if it offers any other paid leave or combination of other paid leave that may be used as sick leave that is accrued in total at a rate equal to or greater than the rate of accrual for paid sick leave. Other paid leave may include, but is not limited to, paid vacation, personal days, or paid time off. The paid time off must allow for the same type of excused absences as are available under the new law.

Also exempt are most manufacturers and organizations like the YMCA which provide child care, recreation, and education.

Paid sick leave can be used as follows:

1. For employee's illness, injury, or health condition;
2. The medical diagnosis, care, or treatment of an employee's mental or physical illness, injury, or health condition, or preventative employees of medical care for an employee;
3. For a child's, parent's or spouse's illness, injury, or health condition;
4. The medical diagnosis, care, or treatment of a child's, parent's, or spouse's mental or physical illness, injury, or health condition; or
5. Preventative medical care for a child, parent, or spouse;
6. When employee is the victim of family violence or sexual assault:
 - (a) For medical or psychological or other counseling for physical or psychological injury or disability;
 - (b) To obtain services from a victim's services organization;
 - (c) To relocate due to such family violence or sexual assault; or
 - (d) To participate in any civil or criminal proceedings resulting therefrom.

If an employee's need to use paid sick leave is foreseeable, employer may require advance notice, not to exceed seven (7) days prior to the date such leave is to begin. If the need is not foreseeable, employer may require an employee to give notice of such intention as soon as practicable. For paid sick leave of three (3) or more consecutive days, an employer may require reasonable documentation that such leave is being taken for the purpose permitted.

Unless an employee policy or collective bargaining agreement provides to the contrary, no employee shall be entitled to payment upon termination of employment for unused accrued sick time.

The law also prohibits retaliation against employees for taking advantage of the law. The Department of Labor can levy a civil penalty of up to \$600.00 for each violation and award the employee rehiring, reinstatement, payment of back wages, and reestablishment of benefits.

At the time of hiring, an employer must provide each new employee with notice of (1) the employee's entitlement to sick leave, the amount of sick leave provided, and the terms under which sick leave may be used, (2) that retaliation by the employer against the employee for requesting or using sick leave is prohibited, and (3) that the employee has the right to file a complaint with the Labor Commissioner for any violation of the law. Employers can display a poster in a conspicuous place that contains the information in both English and Spanish. The Labor Commissioner is empowered to adopt regulations under the law to establish additional requirements concerning the means by which employers must provide notice.

Covered employers should consider:

- (a) Determining whether current paid time off policies cause them to comply with the new law.
- (b) If not, then implement new policy:
 - (i) Revise handbooks and manuals; and
 - (ii) Prepare notices for posting or revise hiring documents to give notice.
- (c) Train supervisors regarding anti-retaliation and recordkeeping.