

FREQUENTLY ASKED QUESTIONS CALIFORNIA'S PAID SICK LEAVE LAW

(AR 420/AB 1522)

Eligibility for paid sick leave under the new law

- 1. When does the new law take effect?**
 - a. The state's new sick leave law takes effect January 1, 2015. However, the right to accrue and take sick leave under this law does not take effect until **July 1, 2015**.

- 2. How do I qualify for paid sick leave?**
 - a. An employee qualifies for paid sick leave by working for an employer on or after January 1, 2015, for at least 30 days within a year in California and by satisfying a 90 day employment period (which works like a probationary period) before an employee can actually take any sick leave.

- 3. What if I work more than 30 days in California within a year but less than 90 days?**
 - a. The 90 day period works like a probationary period. Although you begin to accrue paid sick leave on July 1, 2015, or your first day of employment if you are hired after July 1, 2015, if you work less than 90 days for your employer, you are not entitled to take paid sick leave.

- 4. When am I entitled to take paid sick leave?**
 - a. A qualifying employee begins to accrue paid sick leave beginning on July 1, 2015, or if hired after that date on the first day of employment. An employee is entitled to use (take) paid sick leave only after meeting the qualifications for paid sick leave (addressed in the previous three questions/responses) and accruing enough paid sick leave time to use for one of the stated purposes of the law.

- 5. Why does the law take effect January 1, 2015 if I don't begin accruing until July 1, 2015?**
 - a. The different dates are a result of the general effective dates of new legislation (on January 1 following enactment of the law) and the way the law was drafted making some of its provisions operative on a specified date (July 1, 2015). Both the qualifying periods that determine which employees are eligible for paid sick leave and the employee notice required by Labor Code 2810.5 become effective on January 1, 2015, but the law provides that entitlement does not begin until July 1, 2015.

How do qualifying employees accrue and take paid sick leave

- 1. If I qualify, how much paid sick leave am I entitled to take and be paid for?**
 - a. Starting July 1, 2015, employees will earn at least one hour of paid leave for every 30 hours worked. Employers can limit the amount of paid sick leave you can take in one year to 24 hours (three days).

- 2. Why does the law permit more than one year's worth of accrual?**
 - a. Accrual, carryover, and use are all distinct concepts. Accrual is based on the number of hours an employee works; the amount carried over to the next year may be subject to a cap if the employer establishes a cap by policy; and finally, use may be limited to 3 days per year.

- 3. What happens if I am a seasonal employee and I only work 60 days one year but return to the same employer within one year and work another 60 days?**
 - a. The paid sick leave law requires that your accrued sick leave be restored to you if you return to the same employer within 12 months from the previous separation. Although an employer does not have to allow an employee use of the paid sick leave prior to working 90 days, because the law specifically requires that the leave be restored to you, in your second year, you have met the 90 day restriction on use after 30 days (due to working 60

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days in the prior year) and can begin to use your paid sick leave after working 30 days in the second year.

4. **What happens if I return to work for the same employer after more than one year?**
 - a. The paid sick leave law does not require that your accrued sick leave be restored to you.
5. **If I work part time, six hours per day and I have accrued 24 hours of paid sick leave and I take three paid sick days, can my employer refuse to allow me to take any more sick leave in that same year?**
 - a. No. Because the statute provides that an employer may limit the amount of sick leave to 24 hours or three days, and because you work 6 hours per day, you have only used 18 of your 24 hours. For enforcement purposes, DLSE interprets the reference to “three days” to state an equivalent of 24 hours (based on an 8 hour workday) and is not a limitation that can be used to prohibit a part-time employee from using at least 24 hours of accrued leave in a year. Therefore, the minimum amount that you have to be allowed to take cannot fall below 24 hours. In this situation, you still have 6 hours left to take and be paid for, during the year.
6. **Under the accrual method, can I carry over unused sick leave from one year to the next?**
 - a. Yes, but an employer can limit or cap the amount of sick leave an employee may accrue to 6 days or 48 hours.

For what purposes can an employee take paid sick leave

1. **What can I use sick leave for?**
 - a. You can take paid leave for you or a family member for preventive care or care of an existing health condition or for specified purposes if you are a victim of domestic violence, sexual assault or stalking. Family members include the employee’s parent, child, spouse, registered domestic partner, grandparent, grandchild, and sibling. Preventive care would include annual physicals or flu shots. For partial days, your employer can require you to take at least two hours of leave.
2. **Do I have to give notice that I need to take my paid leave?**
 - a. Employers must permit the employee to use the paid sick leave upon an oral or written request, and the law forbids requiring an employee to find a replacement as a condition for using leave. If the need is foreseeable the employee must give reasonable advance notice, but where the need is unforeseeable the employee need only give notice as soon as practicable.

Payment and tracking of earned and taken leave

1. **When I take paid sick leave, will I get paid as I normally do for the applicable pay period?**
 - a. The new law requires that an employer provide payment for sick leave taken by an employee *no later than* the payday for the next regular payroll period after the sick leave was taken. This does not prevent an employer from making the adjustment in the pay for the same payroll period in which the leave was taken, but it permits an employer to delay the adjustment until the next payroll. For example, if you did not clock in for a shift and therefore were not paid for it but utilized your paid sick leave, your employer would have to pay you not later than the following pay period and account for it in the wage stub or separate itemized wage statement for that following regular pay period.
2. **How much will I get paid?**
 - a. You must be paid at your regular hourly rate.
3. **How will I know how much sick leave I have accrued?**

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- a. Employers must show, on your pay stub or a document issued the same day as your paycheck, how many days of sick leave you have available. Employers also must keep records showing how many hours you earned and used for three years.
- 4. What if I work an alternative work schedule of four 10-hour days and I take paid sick leave. How much should I be paid?**
- a. The paid sick leave law allows the employee to decide how much paid leave time to take, subject to the employer's ability to set a two hour minimum. Therefore, if you have ten hours in your bank, you can request to be paid for ten hours. If you decide to take less time than that in paid sick leave, then you will not receive your full pay but instead, pay for the number of hours that you choose to take. If you are sick for three days and have accrued 24 hours then your employer will have to pay you for 24 hours. However, if you have accrued 30 hours then because the minimum requirements of the statute are 3 days or 24 hours, you will have to be paid for 30 hours.
- 5. If I leave my job, can I cash out my unused sick days?**
- a. No. But if you leave your job and get rehired by the same employer within 12 months, you can reclaim what you had in your leave bank.