

Client Alert

A report
for clients
and friends
of the Firm January 2007

New Paid San Francisco Sick Leave Ordinance To Go Into Effect On February 5, 2007

Under the "Paid Sick Leave Ordinance" passed by San Francisco voters on November 7, 2006, which will take effect on February 5, 2007, all employers with one or more full-time, part-time, or temporary workers employed within the City and County of San Francisco must provide those employees with paid sick leave coverage. Employers with ten or more employees must enable their employees to earn up to 72 hours of paid sick leave, while those with less than ten employees must provide up to 40 hours. An employee accrues one hour of sick leave for every 30 hours of work, up to his or her maximum allocation. All accrued leave can be used not only for the employee's own illness, but for the illness of a parent, child, sibling, grandparent, grandchild, spouse, registered domestic partner, or other related individuals as broadly defined in the Ordinance. While employees who do not receive paid sick leave on equally or more favorable terms will begin accruing paid sick leave on February 5, 2007, individuals employed after that date must wait for 90 days to begin accrual.

The Ordinance alters existing California law as it pertains to San Francisco employers. Section 233 of the California Labor Code, which governs the administration of sick leave, applies only to those California employers who *choose* to provide

sick leave; however, it does not *require* employers to do so. Conversely, the Ordinance affirmatively *mandates* employers to provide sick leave to their San Francisco employees, and authorizes the enactment of oversight and enforcement procedures.

As passed, the Ordinance also enables City employees to use their paid sick leave to care not only for children, parents, spouses, or registered domestic partners, as allowed under applicable California law, but also to assist legal guardians, siblings, grandparents, or grandchildren. Employees without a spouse or registered domestic partner may, within a 10-day window and annually thereafter, "designate one person as to whom the employee may use paid sick leave to aid or care for."

In addition, employers must post a notice informing employees of their rights in a "conspicuous place at the workplace or job site." The posting must be in English, Spanish, Chinese, and any other language spoken by *at least five percent* of the employees at the workplace or job site. The Office of Labor Standards Enforcement is charged with making available translated versions of the notice.

The Ordinance authorizes civil suits by the Office of Labor Standards Enforcement, the City Attorney, any person "aggrieved by a violation," and those "acting on behalf of the public." Recovery extends to all "legal or equitable relief as may be appropriate to remedy the violation," including reinstatement, back pay, the payment of any sick leave unlawfully withheld, liquidated damages, injunctive relief, and reasonable attorneys' fees.

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