

# Reminder: New York State Paid Sick Leave Law Takes Effect September 30

**Law and the Workplace Blog** on **September 24, 2020**

As we [previously reported](#), the New York State paid sick leave law will take effect, and covered employees will begin accruing leave time, on September 30, 2020. However, employees may be restricted from utilizing accrued sick leave until January 1, 2021.

As set forth in our previous blog:

- Employers with **4 or fewer employees and a net income of less than \$1 million** in the prior tax year must provide employees with up to **40 hours** of unpaid sick leave.
- Employers with between **5 and 99 employees** and employers with **4 or fewer employees and a net income of greater than \$1 million** in the prior tax year must provide each employee with up to **40 hours** of paid sick leave per year.
- Employers with **100 or more employees** will provide up to **56 hours** of paid sick leave per year.

Employees must accrue sick leave at a rate of at least 1 hour for every 30 hours worked (which is also the accrual rate set forth under the [New York City Earned Safe and Sick Time Act](#) and the [Westchester County Earned Sick Leave Law](#)). Alternatively, employers may fulfill their obligation under the law by providing the full amount of sick leave in a lump sum at the beginning of each year.

The statute is silent on – and thus leaves unanswered – a few critical questions, including (i) how to determine employer size (i.e., state or nationwide basis); (ii) whether carryover obligations remain applicable to employers that choose to frontload sick leave in lieu of accrual; and (iii) whether it is permissible to require medical certification to support the need for leave (while this is permitted under the New York City and Westchester County laws when an employee's absence exceeds three consecutive work days, the statewide law does not address this). The New York Department of Labor is expected to issue regulations and guidance relating to the law, though no such guidance has been made available as of the date of this posting.

As noted above, employers are not required to permit employees to use accrued sick leave until January 1st. Nevertheless, employers in New York State should review their existing policies and train relevant personnel now to ensure compliance with the new law before its effective date. We will continue to monitor and report on any further developments, including any guidance issued by the state.

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