

## CALIFORNIA PASSES COVID-19 SUPPLEMENTAL PAID SICK LEAVE LAW

Sep 17, 2020

On September 9, California Governor Newsom signed a [bill](#) that establishes COVID-19 supplemental paid sick leave ("COVID-19 PSL") for California workers generally not covered by the federal Families First Coronavirus Response Act ("FFCRA").

### IMPORTANT DATES

Employers are required to begin providing COVID-19 PSL by **September 19**.

Employers must also post a [notice](#) in their workplace by **September 19**. If employees are not physically present in the workplace, the employer may disseminate the notice electronically.

Starting in **the first pay period after September 9**, employers must provide notice in a wage statement (or a separate writing provided on pay day) of an employee's available COVID-19 PSL each pay period.

The requirement to provide COVID-19 PSL expires on **December 31, 2020** or upon the expiration of any federal extension of the Emergency Paid Sick Leave Act established by the FFCRA.

### COVERED EMPLOYERS & EMPLOYEES

California's new law applies to private employers with **500 or more employees** in the United States. It also applies to any public or private entity that employs health care providers or emergency responders and that has elected to exclude such employees from emergency paid sick leave under the FFCRA.

Workers are entitled to COVID-19 PSL only if they are (1) employed by a covered employer AND (2) leave home to perform work for their employer.

### REASONS FOR LEAVE

Employees are entitled to COVID-19 PSL when they are unable to work because they:

- are subject to a federal, state, or local quarantine or isolation order related to COVID 19;
- are advised by a health care provider to self-quarantine or self-isolate due to concerns related to COVID-19; or
- are prohibited from working by their employer due to health concerns related to the potential transmission of COVID-19.

## AMOUNT OF LEAVE

Employees are entitled to 80 hours of COVID-19 PSL if:

- the employer considers them to work “full time”; or
- the worker worked or was scheduled to work, on average, at least 40 hours per week in the two weeks prior to leave.

Employees who do not satisfy at least one of these conditions are entitled to an amount of COVID-19 PSL as follows:

Schedule	Leave Entitlement
Employee has normal weekly schedule	Total number of hours employee is normally scheduled to work over a two-week period
Employee has variable schedule	14 times the average number of hours worked each day in the six months prior to leave
Employee has variable schedule AND has worked for employer for 14 days or fewer	Total number of hours worked

## AMOUNT OF PAY

Employers must compensate workers for COVID-19 PSL at a rate equal to the highest of the employee’s regular rate of pay for the last pay period, the state minimum wage, or the local minimum wage. Pay for leave is capped at \$511 per day or \$5,110 in the aggregate.

## CREDIT FOR EXISTING LEAVE PROGRAM

Employers that previously provided leave for the reasons outlined above, and compensated employees in the amounts described above, may count the hours of such leave toward the total number of hours of COVID-19 PSL they must provide a covered worker.

However, COVID-19 PSL must be provided in addition to any paid sick leave an employee is entitled to under California's Healthy Workplaces, Healthy Families Act of 2014. Thus, any leave provided pursuant to the HWHFA may not be credited toward COVID-19 PSL.

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BCLP has assembled a COVID-19 HR and Labor & Employment taskforce to assist clients with labor and employment issues across various jurisdictions. You can contact the taskforce at: [COVID-19HRLabour&EmploymentIssues@bclplaw.com](mailto:COVID-19HRLabour&EmploymentIssues@bclplaw.com)

## RELATED PRACTICE AREAS

- Retail & Consumer Products

## MEET THE TEAM



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