

## *Emergency Paid Sick Leave Act*

### (part of the “Families First Coronavirus Response Act”)

#### **GENERAL REQUIREMENTS**

The Emergency Paid Sick Leave Act mandates that *certain* employers must provide up to 10 days of paid sick time to employees unable to work (or telework) because of specific circumstances caused by the coronavirus, COVID-19 ("Emergency Paid Sick Leave").

#### **EMPLOYERS SUBJECT TO THE ACT**

Private employers with *LESS* than 500 employees and governmental agencies are required to provide Emergency Paid Sick Leave to eligible employees.

- An employer of emergency responders and health care providers are not required to offer such employees Emergency Paid Sick Leave.

**SMALL BUSINESS EXCEPTION:** The Secretary of Labor has authority to issue regulations to exclude small businesses (with less than 50 employees) from the Emergency Paid Sick Leave requirements if the requirements jeopardize the ongoing viability of the business.

**Interplay Between Employer's Current Paid Time Off Policies:** Employers are required to provide Emergency Paid Sick Leave in addition to whatever sick time (or other paid time off/PTO) the employer provides.

- Employers may not require that employees first exhaust other paid leave before taking Emergency Paid Sick Leave, although employees may request to exhaust their other employer provided leave time prior to taking Emergency Paid Sick Leave.

#### **QUALIFYING REASONS**

Employers who meet the definition above are required to provide eligible employees Emergency Paid Leave for the following reasons:

1. The employee is subject to a federal, state or local coronavirus quarantine or isolation order, or is caring for someone subject to a quarantine or isolation order.
2. The employee has been advised by a health care provider to self-quarantine due to concerns related to the coronavirus, or is caring for someone who has been so advised.
3. The employee is experiencing symptoms of the coronavirus and is seeking a medical diagnosis, or the employee is otherwise experiencing any other substantially similar conditions as specified by the Secretary of Health and Human Services in consultation with the Secretaries of Treasury and Labor.
4. The employee is caring for a son or daughter if the school or daycare has been closed/is unavailable due to COVID-19 precautions.

#### **APPLICATION TO FULL AND PART-TIME EMPLOYEES**

Emergency Paid Sick leave applies to full-time and part-time employees from day one of employment.

## ***Emergency Paid Sick Leave Act, Continued***

### **PAYMENT REQUIREMENTS**

The maximum Emergency Paid Sick Leave employers are required to provide is 10 days.

NOTE: The employee is required to return to work on the next scheduled shift once the coronavirus-related circumstances that prevented the employee from working have subsided (which may be shorter than the 10 days).

### **How do employers calculate the payment required for Emergency Paid Sick Leave?**

- A full-time employee is entitled to 80 hours of sick time.
- A part-time employee is entitled to sick time for the average number of hours the employee works over a two week pay period.

### **Limitations on the Amounts for Emergency Paid Sick Leave**

- An employee taking Emergency Paid Sick Leave because the employee is caring for others (or because the employee, personally, is experiencing any *other* condition substantially similar to one specified by the Secretary of Health and Human Services in consultation with the Secretaries of the Treasury and Labor), is limited to two-thirds (2/3) of the employee's regular of the regular rate of pay, not to exceed \$200 per day and \$2,000 in the aggregate.
- An employee taking Emergency Paid Sick Leave, because of the employee's own condition or quarantine, is limited to \$511 per day and \$5,110 in the aggregate. (See above for Emergency Sick Leave pay limitations should an employee experience any *other* condition substantially similar to one specified by the Secretary of Health and Human Services in consultation with the Secretaries of the Treasury and Labor).

### **REASONABLE NOTICE REQUIREMENTS**

After the initial emergency paid sick time is taken by an employee, the employer may require the employee to follow "reasonable notice procedures" as a condition to receiving further Emergency Paid Sick Leave.

### **PENALTIES AND OTHER PROHIBITIONS**

**Shift Coverage:** An employer may not require an employee to find substitute(s) to cover shifts as a condition of Emergency Paid Sick Leave.

**Penalties for Violations of the Emergency Paid Sick Leave Act:** An employer who fails to provide Emergency Paid Sick Leave in accordance with the Act is considered to have failed to pay minimum wages under the Fair Labor Standards Act.

**Discrimination Prohibited:** Employers may not take adverse action against an employee who takes Emergency Paid Sick Leave or has filed a complaint or testified, is about to testify, in a proceeding related to the Emergency Paid Sick Leave.

*Emergency Paid Sick Leave Act, Continued*

**EMPLOYERS WHO ARE SIGNATORIES  
TO A MULTI-EMPLOYER BARGAINING AGREEMENT**

Such an employer may fulfill its obligations under the Emergency Paid Sick Leave by making contributions to a multi-employer fund, plan or program based on the hours of paid sick time each of its employee is entitled to under the Emergency Paid Sick Leave Act, provided that such fund, plan or program enables employees to secure pay from such fund, plan or program based on hours worked under the collective bargaining agreement or for the other uses specified under the Emergency Paid Sick Leave Act.