

NEW STATE SICK LEAVE POLICY SUMMARY

We wanted to provide you with some details on the new statewide Paid Sick Leave policy that is required starting January 1st, 2018. Highlights are below as well as links to additional details and sample policies. The overview is as follows:

As part of Initiative 1433 - Starting January 1st, 2018 employers in Washington are required to provide their employees with sick pay.

- Most employers must accrue paid sick leave at a rate no less than 1 hour of paid sick leave for every 40 hours worked. This includes part-time and seasonal workers.
- Paid sick leave must be paid at the normal hourly rate.
- Employees are entitled to use the accrued sick leaving beginning 90 days after the start of employment.
- Unused sick leave of 40 hours or less must be carried over to the following year.
- Employers are allowed to provide more generous policies.
- Employees may use sick leave to care for themselves or their family members, when the employee's workplace or their child's school or place of care has been closed by a public official for any health-related reason, or for absences that qualify for leave under the state's Domestic Violence Leave Act. (Employers may allow paid sick leave use for additional purposes.)
- Employees must be notified of their balance no less frequently than once a month (on check stubs is sufficient). Notification must include remaining balance available for usage.
- If a current "blanket" policy is in place (for example – PTO that includes vacation, sick, etc.) – this is sufficient, as long as it meets the minimum paid sick leave requirements. However – if there is no differentiation between the policies, all PTO would be treated as paid sick leave and the employee would be allowed to use as such.
- Employees exempt from WA Minimum Wage Act are not entitled to paid sick leave.
- Paid sick leave that exceeds three days – An employer may require reasonable documentation to verify that use of sick leave is valid. The verification may not result in an unreasonable burden or expense on the employee OR violate privacy laws.
- Employers are not required to pay out accrued, unused time upon separation of employment.
- If an employee is rehired within 12 months, the employee is entitled to have their paid sick leave reinstated. This includes bypassing any portion of the 90-day waiting period previously met.
- An employer may not require an employee to find a replacement worker to cover for the employee's paid sick leave absence.
- Employers may not count paid sick leave absences against an employee under the employer's attendance policy that could result in discipline.
- There is no cap for annual accrual or usage of paid sick leave.
- Employers may front-load sick leave as long as they comply with all requirements.

For additional information, please visit:

<http://www.lni.wa.gov/WorkplaceRights/LeaveBenefits/VacaySick/PaidSickLeave.asp>

<http://www.lni.wa.gov/WorkplaceRights/files/FamilyLeave/PaidSickLeaveFactsheet.pdf>

<http://www.lni.wa.gov/WorkplaceRights/LeaveBenefits/VacaySick/>

There is training available:

<http://www.lni.wa.gov/apps/workshops/workshopinfo.asp?WkshopID=810>

Sample Policies:

<https://lni.us.engagehq.com/PaidSickLeaveSamplePolicies>

Initiative 1433 wrote the paid sick leave provisions into the existing Minimum Wage Act. The definition of "employee" under the Minimum Wage Act exempts 16 categories of workers. RCW 49.46.010(3)(a)-(p). If a worker meets one of those exemptions, they are exempt from the minimum wage, overtime, and paid sick leave.

RCW 49.46.010: <http://app.leg.wa.gov/rcw/default.aspx?cite=49.46.010>

However, there are categories of workers exempt from overtime but NOT from minimum wage and paid sick leave – these employees will get paid sick leave (most agricultural employees, for instance). RCW 49.46.130(2)(b)-(j).

RCW 49.46.130: <https://app.leg.wa.gov/rcw/default.aspx?cite=49.46.130>

Only those employees who meet the definition of executive, administrative, or professional and who are paid on a salary basis are considered "exempt" employees. The salary basis regulation does not cover employees who are paid on a salary basis but do not meet the definition of an executive, administrative, or professional. I would suggest reviewing each type of exemption to make sure a salaried employee is truly exempt.

Executive Exemption: <http://app.leg.wa.gov/WAC/default.aspx?cite=296-128-510>

Administrative Exemption: <http://app.leg.wa.gov/WAC/default.aspx?cite=296-128-520>

Professional Exemption: <http://app.leg.wa.gov/WAC/default.aspx?cite=296-128-530>