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## Connecticut Enacts Paid Sick Leave Law

*On June 8, 2011, Connecticut became the first state to require employers to provide workers with paid sick leave. The new law, which will take effect on January 1, 2012, generally affects employers that employ 50 or more individuals in the state.*

### Background

Only San Francisco and Washington, D.C. currently require private employers to provide paid sick leave for their workers. Philadelphia's mayor has just vetoed a paid sick leave bill that would have affected businesses in that city, while several other U.S. cities, including New York, are considering or soon may consider similar legislation.

On June 8, 2011, Connecticut Governor Daniel Malloy signed into law the first statewide law in the country requiring private sector employers to provide paid sick leave to their employees.

### The New Mandate

The new law ([Public Act No. 11-52](#)) generally requires employers that employ 50 or more individuals in Connecticut during any quarter of the prior year to provide paid sick leave for service workers beginning in 2012. For employers that already provide paid leave, the new law establishes minimum requirements for leave programs.

### Covered Employers

Employers covered by the new law include "any person, firm, business, educational institution, nonprofit agency, corporation, limited liability company or other entity" that employs 50 or more individuals in Connecticut in any one quarter of the prior year. The law expressly exempts certain manufacturers and nationally chartered tax-exempt organizations that provide recreation, child care, and education services.

Employers must determine annually on January 1 whether they are subject to the law's requirements, based on wage information they submit to the state Labor Commissioner for unemployment compensation purposes. All employees employed in Connecticut are counted in determining whether an employer meets the coverage threshold, regardless of whether they would be entitled to paid sick leave under the new law.

## Service Workers

Only employees classified as “service workers” are actually covered under the new law. Service workers include hourly and non-exempt employees working in any of 68 statutorily specified occupational classifications, such as retail salespersons, nurses, data entry and information processing workers, secretaries/administrative assistants, receptionists, food service workers, hotel workers, janitors, security guards, child care workers, medical assistants, and dental assistants. Day and temporary workers are excluded from coverage, as are employees exempt under the Fair Labor Standards Act.

## Qualifying Sick Leave

A covered service worker may take sick leave for the mental or physical illness, injury or health condition, medical diagnosis, or preventative medical care of the worker, the worker’s spouse, or the worker’s child. A service worker who is a victim of family violence or sexual assault may also take paid sick leave for the following reasons: for medical care or counseling; to obtain services from a victim services organization; to relocate; or to participate in legal proceedings related to the violence or assault.

## Accrual and Payment of Sick Leave

**Accrual and Carryover.** Beginning January 1, 2012, covered service workers will accrue benefits at a rate of one hour of paid sick leave for every 40 hours worked, up to a maximum of 40 hours paid leave for the calendar year. Although service workers may carry over up to 40 hours of unused accrued sick leave from one calendar year to the following year, they may not use more than 40 hours of accrued leave in any calendar year.

An employer will be deemed in compliance if it offers any other paid leave (e.g., paid vacation, personal days or paid time off (PTO)) or combination of paid leave that can be used for the same purposes as qualifying sick leave and accrues at the same or a faster rate than the new law requires.

**BUCK COMMENT.** *By instituting an appropriately tailored PTO policy, Connecticut employers can satisfy their compliance burdens under the new law and likely simplify leave administration.*

**Use of Sick Leave.** Service workers may use accrued sick leave upon completion of 680 hours of employment from January 1, 2012 or their hire date, whichever date is later, provided they worked an average of 10 hours or more per week in the calendar quarter before the leave.

**BUCK COMMENT.** *The law provides that sick leave will accrue in hourly increments, but is silent on whether employers must allow service workers to use leave in hourly increments. The law is also silent on whether employers can require workers to use paid sick leave concurrently with leave under the federal Family and Medical Leave Act (FMLA) or the Connecticut Family and Medical Leave Act (CFMLA). Guidance from the Labor Commissioner would be helpful.*

**Payment of Sick Leave.** Sick leave must be paid at the state minimum wage rate or the employee's normal hourly wage rate, whichever is greater. For employees whose wage rates vary, sick leave must be paid at the average hourly rate the employee earned in the pay period immediately preceding the pay period in which the employee takes leave. Unless an employer's policy or collective bargaining agreement provides otherwise, the employer is not required to pay out accrued but unused sick leave upon the employee's termination.

## Required Notices

**Employee Notice Requirements.** Consistent with FMLA and CFMLA requirements, service workers must give the employer notice of intended leave if the leave is foreseeable. In such circumstances, employers may require notice up to seven days in advance of the leave. When leave is not foreseeable, service workers must give notice as soon as practicable. For leaves of three or more consecutive days, employers may ask for reasonable documentation, such as a signed note from a health care provider or a court record.

**Employer Notice Requirements.** Covered employers must provide notice to each service worker at the time of hire of his or her entitlement to paid sick leave, the amount of sick leave provided, and the terms under which leave may be used. Notice must also be provided that retaliation against a service worker for requesting or using eligible sick leave is prohibited and that the worker has the right to file a complaint with the state Labor Commissioner for violations of the law. Employers may satisfy the notice requirements by displaying a poster that contains the required information in both English and Spanish in a conspicuous location accessible to service workers.

## Conclusion

The new law provides a floor for paid sick leave benefits for eligible service workers. Although many businesses already offer some form of sick leave, their personnel policies and benefit programs may apply different eligibility criteria, accrual rates, or use restrictions than the new law requires. Thus, employers should carefully determine whether they are a covered employer and, if so, which of their workers are covered by the paid sick leave law. Covered employers should review and revise existing leave policies and programs, train supervisors on the new requirements, and take any other steps necessary to ensure that they will be able to satisfy their compliance obligations when the new law takes effect next year.

Buck's consultants would be pleased to assist you in your compliance efforts.

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*This FYI is intended to provide general information. It does not offer legal advice or purport to treat all the issues surrounding any one topic.*