

## Rhode Island: 8<sup>th</sup> State to Enact Paid Sick Time Law

On September 28, Rhode Island enacted the Healthy and Safe Families and Workplaces Act, becoming the eighth state to require employers to provide paid sick leave benefits. Employers with at least 18 employees will have to provide up to three days of paid, job-protected sick or safe leave in 2018, four days in 2019 and five days in 2020. Employers should evaluate whether they will need to make any changes to their current policies to ensure compliance.

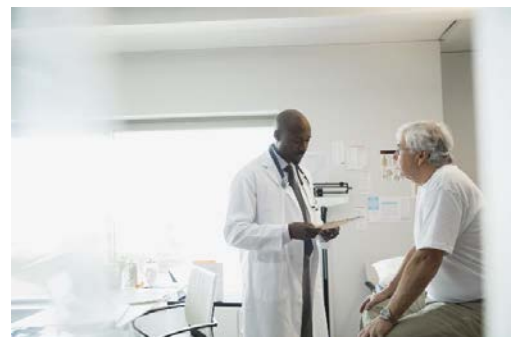
### Background

When 2014 began, only one state – Connecticut – and a handful of major cities had paid sick leave laws on the books. Since then, six more states – Arizona, California, Massachusetts, Oregon, Vermont and Washington – and additional major metropolitan areas like New York City, Portland, and Chicago have adopted paid sick leave laws. Except for Washington’s, each of these states’ paid sick leave laws are already in effect. (See, for example, our [July 1, 2015 FYI In-Depth](#), [March 18, 2016](#), and [November 18, 2016](#) issues of *For Your Information*.)

### Rhode Island’s New Benefit

When Gov. Gina Raimondo signed the Healthy and Safe Families and Workplaces Act ([H5413Baa](#), [S0290B](#)) into law on September 28, Rhode Island became the eighth state to require businesses to provide paid sick leave. When the law takes effect on July 1, 2018, Rhode Island employers will have to allow employees to earn and use a minimum amount of sick and safe leave time.

The new benefit will be phased in over three years and, when fully implemented, will require employers with at least 18 employees to provide 40 hours of paid, job-protected sick and safe leave. With limited exceptions, employers with at least 18 employees will have to provide employees with up to 24 hours (three days) of paid, protected leave in 2018, 32 hours (four days) in 2019, and 40 hours (five days) in 2020. Employers with existing paid time off or other policies that provide the same or a greater amount of leave that can be used for the same purposes as under the new law will not be required to provide additional leave.



## **Accrual, Frontloading and Carryover**

Beginning on July 1, 2018 or the commencement of employment if later, employees will accrue a minimum of one hour of leave for every 35 hours worked, up to a maximum of 24 hours in 2018, 32 hours in 2019, and 40 hours in each subsequent year unless the employer chooses to provide a higher limit. For exempt employees, accrual will be based on a 40-hour workweek or their normal workweek, if shorter.

Employers will have two options to avoid tracking accruals – frontload the required annual amount of leave at the beginning of each year or provide a monthly lump sum. Employers using the monthly lump sum alternative would base the allotment on how many average hours an employee works per week. To shift from an accrual-based method to frontloading, employers will have to either carry over any accrued, unused leave or cash it out at year end. They will then have to frontload the required amount at the beginning of the next year.

Accrued but unused leave must be carried over to the following year. However, unlike unused accrued vacation, employers will not be required to pay out unused sick and safe leave on termination. While there is no cashout requirement, there is a reinstatement requirement for rehires. Employers will have to reinstate any previously accrued but unused leave for employees who are rehired within 135 days of their separation.

## **Use**

Paid time off provided under the new law may be used for:

- An employee's own or certain family member's illness, injury or health condition, or preventive medical care
- Reasons related to domestic violence, sexual assault, or stalking of an employee or covered family members
- Closure of the employee's workplace or child's school due to a public health emergency
- Constraining the employee's or covered family member's presence in the community to prevent the spread a communicable disease

For these purposes, covered family members include child, parent, spouse, in-laws, grandparents, grandchildren, domestic partners, siblings, care recipients, and members of the employee's household.

Regardless of carryover, an employer may cap annual usage at the applicable accrual limits. While new hires will begin accruing leave at the start of their employment, employers generally may prevent them from using it until after the 90<sup>th</sup> day of employment. Seasonal and temporary employees may be prohibited from using leave until after the 150<sup>th</sup> and 180<sup>th</sup> day of employment, respectively. In addition, an employer may set a minimum increment for using leave, but it cannot exceed four hours per day.

## **Notice**

While the new law will require employers to provide paid sick and safe leave upon request, they may require employees to advise how long they expect to be out. When the need for leave is foreseeable, employers may require advance notice and that employees make a reasonable effort to schedule leave such that it will not unduly disrupt operations. If an employer will also require notice for unforeseeable leave, it must maintain and distribute a written policy that includes notice procedures.

For absences of more than three consecutive days, employers may require reasonable documentation that leave was for an allowable purpose, provided employees had advance notice of the requirement. Additionally, an employer may require written documentation for sick time taken within two weeks of the employee's final scheduled workday prior to termination.

## Penalties

Employers that violate the new law will face fines ranging from \$100 to \$500 per day, the same penalties that apply to minimum wage violations.

## In Closing

Rhode Island has now joined neighboring Connecticut and Massachusetts in mandating an employee paid sick leave benefit. Employers in that region should review their current leave policies and practices to determine whether they may need to make any changes to ensure compliance.

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