



Regulatory Compliance Bulletin

November 19, 2020

AB 1867 - Supplemental Paid Sick Leave

AB 1867, which was chaptered on September 10, 2020, provides up to 80 hours of supplemental paid sick leave for COVID-19 reasons. This legislation will take effect no later than 10 days after the enactment of the bill.

Under the federal Families First Coronavirus Response Act ("FFCRA"), employers of 500 or less employees are required to provide up to two weeks of paid sick leave for COVID-19 related reasons. This law is set to expire on December 31, 2020.

AB 1867 would, among other things, add Section 248.1 to the Labor Code to require employers with over 500 employees in the United States, or those who employ a health care provider or emergency responder, to provide supplemental paid sick leave ("SPSL") of up to 80 hours for COVID-19 related issues.

Employees are entitled to leave if they are unable to work for any of the following reasons: (1) they are subject to a federal, state, or local quarantine or isolation order related to COVID-19, or (2) they are advised by a health care provider to self-quarantine or self-isolate due to concerns related to COVID-19, or (3) they are prohibited from working by a hiring entity

due to health concerns related to potential transmission of COVID-19.

The amount of supplemental leave an employee will receive is dependent on how many hours they work. If the employee is regarded as a full time employee or worked or was scheduled to work on average at least 40 hours per week in the two weeks preceding the date of taking the leave, then they are entitled to 80 hours of COVID-19 supplemental sick leave. If an employee works less than full time, an employer is required to provide SPSL as follows: If they work a normal weekly schedule, then they are entitled to the number of hours they would normally be scheduled to work over a two week period. If an employee works a variable number of hours, then they are entitled to 14 times the average number of hours worked each day in the last six months. However, if that employee has worked for less than six months but more than 14 days, then the calculation will be made over the entire period the employee has worked for the employer. And if an employee has worked less than 14 days for an employer, then they are eligible to receive the same number of hours as they have worked.

This new law will cover workers who are required to leave their home to perform

April 4, 2016

work. The rate of compensation to be provided under the SPSL is the highest of either an employee's regular rate of pay for the last pay period, the state minimum wage or the federal minimum wage. The maximum total to be paid out to an employee by an employer is \$511 per day and \$5,110 total.

Under this new legislation, an employee cannot be forced to use any other paid or unpaid time off before they can use the SPSL. In addition, an employee can determine how many hours of leave to use.

The Labor Commissioner will enforce this new law and by seven days after the bill's effective date will have a model notice for employers to display which can also be emailed to employees who are remote.

This law will sunset on December 31, 2020 or upon the expiration of any federal extension of the Emergency Paid Sick Leave Act, whichever is later.

The information contained in this CBA Regulatory Compliance Bulletin is not intended to constitute, and should not be received as, legal advice. Please consult with your counsel for more detailed information applicable to your institution.

© This CBA Regulatory Compliance Bulletin is copyrighted by the California Bankers Association, and may not be reproduced or distributed without the prior written consent of CBA.
