



## Increase in Minimum Wages and New Paid Sick Leave Obligations that Certain California Employers Must Comply with as Early as July 1, 2016

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### Minimum Wage Increase for the City of Los Angeles and County of Los Angeles

Beginning on July 1, 2016, the minimum wage in the City of Los Angeles and any unincorporated area of Los Angeles County will increase to \$10.50 per hour—fifty cents higher than the state minimum wage. This increase is the first of several to take place between 2016 and 2020. Next year, the minimum wage in these areas will increase again to \$12.00 per hour, then to \$13.25 per hour in 2018, then to \$14.25 per hour in 2019, and finally to \$15.00 per hour in year 2020. On July 1, 2022, and annually thereafter, the minimum wage will increase based on the Consumer Price Index for Urban Wage Earners and Clerical Workers for the Los Angeles metropolitan area, which is published by the Bureau of Labor Statistics. Tips cannot be counted toward the minimum wage.

Employers with 25 or fewer employees, however, have an extra year to adjust to this new minimum wage schedule. These employers have until July 1, 2017 to meet the new \$10.50 minimum wage, which will still continue to increase every year thereafter in the same increments until hitting \$15.00 in year 2021. An employer must calculate the average number of employees it employed during the previous calendar year, including any employees who performed work outside of Los Angeles, in order to determine whether you qualify for the foregoing deferred schedule.

The new minimum wage laws apply to any employee who works at least two hours in a one week period in the City of Los Angeles or in an unincorporated area of Los Angeles County. The employee's status as full-time, part-time, temporary, on probation, or in training is of no consequence. Moreover, the employee's residential address and the location of the employer's headquarters are irrelevant—the law only looks to where the employee performs the work. If the work is performed in either the City of Los Angeles or an unincorporated area of Los Angeles County, the employee is entitled to the increased

minimum wage. If you are an employer, you should take extra care to consult with counsel to determine how this new minimum wage law will affect your business.

### City of Los Angeles Paid Sick Leave

Beginning July 1, 2016, employers in the City of Los Angeles will also have to provide paid sick leave to employees who perform at least two hours of work within the geographic boundaries of the City of Los Angeles.

Every employee is entitled to paid sick leave who, on or after July 1, 2016, works in the City of Los Angeles for the same employer for 30 days or more within a year from the commencement of employment.

An employee may use paid sick leave beginning on the 90<sup>th</sup> day of employment or July 1, 2016, whichever is later.

The City of Los Angeles paid sick leave ordinance requirements exceed the current obligations of employers under the California Healthy Workplace Healthy Family Act (the "California paid sick leave law"). Employers must provide sick leave by either: (i) providing forty-eight (48) hours of paid sick leave at the beginning of each year of employment; or (ii) providing the employee one hour of sick leave per every thirty (30) hours worked.

Employees are entitled to take up to 48 hours of sick leave in each year of employment, calendar year, or 12 month period. Accrued but unused paid sick leave carries over to the following year of employment and an employer can set a cap of 72 hours. An employer has the ability to establish a higher cap or have no cap at all.

Note: The City of Los Angeles ordinance provides for increased paid sick leave in comparison to the California paid sick leave law. Under the California paid sick law, employees are entitled to earn at least one hour of paid sick leave time for every 30 hours worked, up to a cap of 48 hours. However, employers could



satisfy the accrual requirement by granting 24 hours of paid sick leave up front. As stated above, employers in the City of Los Angeles must provide at least 48 hours up front, or permit employees to accrue up to a cap of 72 hours.

If an employer has a paid leave or paid time off policy that provides 48 or more hours of time off, the employer's plan may be in compliance with the City of Los Angeles ordinance if its plan meets or exceeds the accrual requirements of the ordinance and permits employees to use the leave for the same purposes and under the same conditions as paid sick leave under the ordinance.

Employees may take paid sick leave upon oral or written request for the following purposes:

- (1) Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member.
  - (2) For an employee who is a victim of domestic violence, sexual assault, or stalking.
- "Family member" means any of the following:
- (1) A child, which for purposes of this article means a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis. This definition of a child is applicable regardless of age or dependency status.
  - (2) A biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.
  - (3) A spouse.
  - (4) A registered domestic partner.
  - (5) A grandparent.
  - (6) A grandchild.
  - (7) A sibling.

Employees may also take sick leave for the purposes set forth above to tend to an individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship. This is departure from the California paid sick leave law, which does not require employers to provide paid sick leave for the foregoing.

An employer may require that an employee provide reasonable documentation of an absence from work for which paid sick leave is or will be used.

Like the California paid sick leave law, the City of Los Angeles ordinance does not require that an employee pay out accrued or unused sick days upon termination, resignation, retirement, or other separation from employment.

However, an employer is required to reinstate paid sick leave time for an employee that separates and is rehired by the same employer within one year from the date of separation.

An employer in the City of Los Angeles should:

1. Immediately review, and if necessary, revise its policies to comply with the City of Los Angeles paid sick leave law.
2. Depending on the workforce, determine whether an up-front or accrual basis policy should be implemented.
3. Review policies to determine whether implementing a paid time off policy (which incorporates vacation and sick time) is better suited for its business operations.
4. Notify employees of its obligations under the new law.

## **San Diego Minimum Wage Increase and Paid Sick Leave Law**

On June 7, 2016, San Diego voted to modify the paid sick leave requirements and increase the minimum wage for all employees who work at least two or more hours in a calendar week within the city limits.



The ordinance will immediately increase the City of San Diego's minimum wage to \$10.50 per hour, and to \$11.50 per hour on January 1, 2017. Beginning January 1, 2019, further increases will be based on San Diego's Consumer Price Index.

The ordinance also mandates that employers provide employees with one hour of paid sick leave for every 30 hours worked within the city limits. Employers may limit an employee's use of paid sick leave to 40 hours per year, but no cap is permitted.

The ordinance provides that employees must be allowed to accrue sick leave immediately upon hire, though employers may still prohibit use of sick leave until an employee's 90th day of employment.

Sick leave can be used for the employee's own illness, medical appointments, caring for family members, or taking time off due to domestic violence and related incidents.

Employees are permitted to carry over unused sick leave to the following year, but employers are not required to pay out unused sick leave upon the employee's termination or resignation from employment. If an employer already provides sufficient paid sick leave or other paid time off (including paid vacation or paid personal days) that already satisfies the conditions of the ordinance, it is not required to provide any additional sick leave to its employees.

The ordinance also requires employers to post notices within the workplace, and to provide each new employee with written notice of the minimum wage and paid sick leave requirements of the ordinance on the date of hire.

The ordinance is set to go into effect on or before July 7, 2016. There is no indication whether there will be any grace period for employers to comply with the paid sick leave law.

## **Minimum Wage Increase for the City and County of San Francisco**

On July 1, 2016, the minimum hourly wage in San Francisco will increase from \$12.25 to \$13.00. All employers, regardless of where they are located, must pay employees working at least

two hours per week within the geographic boundaries of the city and county of San Francisco the San Francisco minimum wage.

The increase was approved by San Francisco voters on November 4, 2014. The minimum hourly wage will increase to \$14.00 on July 1, 2017, \$15.00 on July 1, 2018, and follow the Consumer Price Index each July 1<sup>st</sup> thereafter.

## **San Francisco Paid Sick Leave Law**

On June 7, 2016, San Francisco voters approved Proposition E, which aligns the differences between the state and city policies on paid sick leave.

Employees in San Francisco now begin to accrue paid sick leave on the first day of employment and can have their unused sick leave reinstated if hired by the same employer within one year of separation. Also, a San Francisco employee could use paid sick leave for legal or other purposes when the employee is a victim of domestic violence, stalking or sexual assault, and to care for a biological, adoptive or foster parent, step-parent, or guardian of their spouse or registered partner, or the employee's guardian when the employee was a minor. Finally, if an employer provides an employee with three days of paid sick leave at the beginning of the year under state law, those three days would be treated as an "advance" on paid sick leave not yet accrued under the city policy.



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