On August 18, 2020, the Sonoma County Board of Supervisors enacted an emergency ordinance to establish supplemental Paid Sick Leave (“PSL”) requirements for private employers with employees who work in its unincorporated areas. The Paid Sick Leave Ordinance (“PSLO”) became operative immediately upon enactment and will run concurrently with the federal Families First Coronavirus Response Act (“FFCRA”), expiring on December 31, 2020; however, the PSLO would be automatically extended by any extension of the provisions of the FFCRA.

Like the requirements of the FFCRA and similar supplemental PSL ordinances issued around California, the PSL required by the PSLO is in addition to any PSL or other leave a qualifying employee was already entitled to under the law or through existing employer policies (i.e., accrued vacation, sick leave and/or paid time off). Employees cannot be required to use their existing leave time before using the supplemental PSL.

Who Is Covered?

**Employees**: Covered employees include any individual, regardless of immigration status, employed by a qualifying employer and who has worked for the employer for more than two (2) hours within the geographic boundaries of unincorporated Sonoma County. (The PSLO, like the City of Santa Rosa’s recent ordinance, is silent on when these two hours must have been worked to qualify.)

**Employers**: The PSLO applies only to employers with **500 or more employees nationally**. It does not apply to any government employer. It does not apply to employers that are already subject to the federal FFCRA — i.e., those with fewer than 500 employees.

Notably, unlike most other recently enacted PSL ordinances, private sector employers of health care providers and emergency responders in unincorporated Sonoma County are required to furnish the supplemental PSL to those providers or responders in certain situations, detailed below.
Supplemental Paid Sick Leave Requirements

1. **Calculation of Supplemental Paid Sick Leave Hours**

   **Full-Time Employees**: A full-time employee (scheduled to work 40 or more hours per week) is entitled to up to eighty (80) hours of supplemental PSL.

   **Part-Time Employees**: A part-time employee (scheduled to work fewer than 40 hours per week) is entitled to supplemental PSL hours equal to no greater than the employee’s average number of work hours in a two-week period, calculated over the past six (6) months.

   The employee must be compensated for sick leave time at no less than the employee’s regular rate of pay not to exceed $511 per day and not to exceed $5,110 in the aggregate, regardless of the reason for the leave.

   Notably, employees of joint employers are only entitled to the total aggregate amount of supplemental PSL specified for employees of one of the employers.

2. **Reasons Supplemental Paid Sick Leave May Be Used**

   An employee can use paid sick leave if they cannot work or telework for any of the following reasons:

   1. The employee has been advised by a health care provider to isolate or self-quarantine to prevent the spread of COVID-19.
   2. The employee is subject to quarantine or isolation by federal, state or local order due to COVID-19.
   3. The employee is experiencing COVID-19 symptoms and is seeking a medical diagnosis.
   4. The employee needs to care for an individual who is subject to a federal, state, or local quarantine or isolation order related to COVID-19, or has been advised by a health care provider to self-quarantine related to COVID-19, or is experiencing COVID-19 symptoms and is seeking a medical diagnosis.
   5. The employee takes time off work because the employee needs to provide care for an individual whose senior care provider or whose school or childcare provider is closed or is unavailable in response to a public health or other public official’s recommendation.

   Health care providers and first responders employed by non-governmental employers are entitled to the supplemental PSL for use for reasons (a)-(d), above, regardless of whether the leave creates a hardship on the employer. However, while the PSL benefits are available to health care providers and first responders for reason (e), the employer is permitted to deny some or all of such a leave request if the employer makes a good faith determination that the leave would create a staffing shortfall creating operational hardship.
New Benefits Required In Wine Country: Sonoma County Enacts Supplemental Paid Sick Leave Ordinance

Other Important Information

- Employers are required to provide notice to employees of the benefits provided by the PSLO by posting a notice in the workplace in both English and Spanish, on any intranet or application-based platform, or via email.
- Employers may only take reasonable measures to confirm an employee’s eligibility for Supplemental PSL, in accordance with the limitations set forth in the FFCRA or in the applicable regulations.
- Employers may require employees to identify the basis for which the employee is requesting leave but cannot require employees to furnish a doctor’s note or other supporting documentation.
- Employers are prohibited from requiring employees to find or confirm a replacement as a condition of taking leave under the PSLO.
- Employers are not required to cash out any the unused Supplemental PSL benefits to employees at the time of separation.
- The supplemental PSL obligation created by the PSLO is deemed satisfied if an employee already has at least 80 hours of accrued PSL benefits as of August 18, 2020, or at least 160 hours of total accrued leave benefits (PSL plus vacation, etc.).
- The PSLO includes a strict anti-retaliation provision and entitles aggrieved employees to pursue a civil action for reinstatement, back pay, withheld leave benefits, and attorneys’ fees.

EMPLOYERS MUST REMAIN DILIGENT

The landscape of local supplemental PSL ordinances in California is still developing, so employers must pay particular attention to the specifics of the provisions applicable to their employees based upon the numbers of workers employed, and the jurisdiction(s) where these employees work. This is particularly important for ordinances such as the PSLO that covers employees who may also have spent time working within the boundaries of the City of Santa Rosa, which enacted its own ordinance recently. Employers should consult their legal counsel as needed to ensure they remain compliant with all applicable laws.

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