



# COMPLIANCE BULLETIN

## Washington Enacts Paid Sick Leave

### HIGHLIGHTS

- Employees accrue a minimum of one hour of paid sick leave for every 40 hours worked.
- Employers may front-load paid sick leave as long as they comply with the law's accrual, use and carryover requirements.
- The law does **not** provide a cap for annual accrual or usage of paid sick leave.

### IMPORTANT DATES

January 1, 2018  
Washington's paid sick leave requirements become effective.

### OVERVIEW

On Nov. 8, 2016, Washington voters approved [Initiative Measure No. 1433](#), a ballot measure that increases Washington's minimum wage and requires employers to provide employees with paid sick leave, **effective Jan. 1, 2018**.

- ✓ Virtually all Washington employers are covered by the paid sick leave requirements.
- ✓ Employees will accrue a minimum of one hour of paid sick leave for every 40 hours worked.

### ACTION STEPS

Employers should review their existing paid time off and sick leave policies and determine whether any changes must be made to comply with the law's requirements. Employers should also consider whether other company policies, such as attendance policies, must be revised to comply with the law's anti-retaliation provisions. If changes are required, employers should make these changes prior to 2018.

Also, employers should watch for implementation guidance from the [Washington State Department of Labor and Industries](#) on paid sick leave, including procedures for notifying employees regarding paid sick leave.

Provided By:  
Sullivan Benefits

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## Covered Employers

Under the law, virtually **all Washington employers** are required to provide paid sick leave to their employees. Covered employers are those subject to Washington's Minimum Wage Act, which defines an employer as "any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee."

*Virtually all Washington employers will be required to provide employees with paid sick leave, effective Jan. 1, 2018.*

## Eligible Employees

In general, **all employees** working for a Washington employer are eligible for the accrual and use of paid sick leave. This generally includes, for example, part-time and full-time employees, hourly and salaried employees, and employees hired on a seasonal or temporary basis. However, employees that are exempt from Washington's Minimum Wage Act are not entitled to paid sick leave.

## Accrual of Paid Sick Leave

Under the paid sick leave law, employees must begin accruing paid sick leave as follows:

### Current Employees

Current employees must begin accruing paid sick leave on **Jan. 1, 2018**.

### New Employees

Employees who are hired after Jan. 1, 2018, must begin accruing paid sick leave **upon hire**.

Employees must accrue at least **one hour of paid sick leave for every 40 hours worked**. The law is silent on any limits an employer may place on the accrual or use of paid sick leave each year. Therefore, there is no limit to the amount of paid sick leave an employee may accrue each year.

Employers may choose to "**front-load**" an amount of paid sick leave to employees each year that meets or exceeds the accrual, use and carryover requirements of the law. In order to comply with the front-loading method, an employer would need a reliable way to forecast the number of paid sick leave hours any employee would accrue during the year, based on hours actually worked. Therefore, front-loading paid sick leave could prove difficult for employers that have many variable hour employees.

## Use of Earned Paid Sick Leave

Paid sick leave is compensated at the employee's normal rate of compensation. Eligible employees must be able to use accrued paid sick leave for **any** of the following reasons:

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1	An employee's own mental or physical illness, injury or health condition, including the need for medical diagnosis, care or treatment, and preventive medical care
2	To care for the employee's family member with a mental or physical illness, injury or health condition, including the family member's need for medical diagnosis, care or treatment, and preventive care
3	Closure of the employee's place of business by order of a public official due to any health-related reason or closure of an employee's child's school or place of care by order of a public official due to any health-related reason
4	Employees who are victims of domestic violence, sexual assault or stalking (or who are family members of a victim) in order to: <ul style="list-style-type: none"><li>✓ Seek or obtain legal, law enforcement or social services assistance;</li><li>✓ Seek or obtain medical treatment or counseling; or</li><li>✓ Participate in safety planning or take other actions to increase safety.</li></ul>

## Family Member

Under the law, **"family member"** is broadly defined. For purposes of using paid sick leave, a family member includes:

- ✓ Children (biological, adopted or foster) of **any age**, including a stepchild or a child to whom the employee stands *in loco parentis*, is a legal guardian or is a de facto parent;
- ✓ Parents (biological, adoptive or foster), including a stepparent, legal guardian of the employee or person who stood *in loco parentis* when the employee was a minor;
- ✓ The employee's spouse or registered domestic partner; and
- ✓ Grandparents, grandchildren or siblings of the employee.

## Permitted Waiting Period

An employer may require employees to wait **90 days after hire** prior to using any accrued paid sick leave.

## Employee Notice and Documentation Requirements

Under the law, an employer may require reasonable notice from employees of the need to be absent. However, the notice requirements may not interfere with the employee's lawful use of paid sick leave.

For paid sick leave absences **exceeding three days**, an employer may require reasonable documentation to verify that use of paid sick leave was for a permitted reason. Documentation must be provided to the employer within a reasonable period of time after the leave. However, an employer's verification

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requirements may not result in an unreasonable burden or expense on the employee, or violate privacy requirements.

## Carryover, Termination and Rehire Requirements

### Carryover

Employees must be permitted to carryover **up to 40 hours** of unused paid sick leave to the following year. This carryover requirement also applies to employers that front-load paid sick leave.

### Termination

Employers are **not** required to payout an employee's accrued, but unused paid sick leave upon termination, resignation, retirement or other separation of employment.

### Rehire

An employee that is **rehired within 12 months** of separation by the same employer (or a different location of the same employer) is entitled to have his or her paid sick leave reinstated. In addition, the employee's previous period of employment counts toward any applicable waiting period for using paid sick leave.

## Employee Protections

Under the paid sick leave law, an employer is prohibited from:

- ✓ Interfering with or denying an employee his or her rights to paid sick leave under the law
- ✓ Retaliating or discriminating against an employee for exercising his or her paid sick leave rights
- ✓ Requiring an employee to find a replacement worker to cover for the employee's paid sick leave absence
- ✓ Counting paid sick leave absences against an employee under the employer's attendance policy that could lead to discipline

## Employer Notification Requirements

Employers will be required to **"regularly"** notify employees of their available paid sick leave. The law is not specific on these notification requirements. The [Washington Department of Labor and Industries](#) is responsible for implementing rules, including the procedures for which employers must notify employees regarding paid sick leave.

## Existing Paid Sick Leave Laws and Ordinances

The law is explicit that it does **not** preempt any existing federal, state or local laws and ordinances relating to paid sick leave. The law also specifically does not prevent any localities from enacting additional labor standards, including paid sick leave and minimum wage standards that are more generous or favorable to employees.

Employers must comply with the new statewide paid sick leave requirements **and** the requirements under any local paid sick leave ordinance it may be subject to (for example, paid sick leave mandates are, or will be effective in Seattle, Tacoma, Spokane and SeaTac). Where state and local paid sick leave provisions conflict, the employer should apply the provision that is most generous to the employee.