

Washington's New Paid Leave Law

Washington's new paid leave law is generating a lot of questions and commentary as employers prepare to implement the law, which becomes effective on January 1, 2018. Initiative 1433 will require all Washington employers to provide paid sick leave to all non-exempt employees, including full-time, part-time and temporary workers. The law will require many employers to adopt or modify existing leave policies.

In addition, employers will still be required to comply with local city laws, such as the Tacoma and Seattle paid leave ordinances, which impose additional requirements on employers in some instances.

Washington's new paid leave law generally provides:

Washington employers, regardless of size, must provide one hour of paid sick leave to employees for every 40 hours worked.

Employees may use the paid sick leave for:

- The employee's mental or physical illness, injury, or health condition; doctor's appointments, preventative care and treatment.
- To provide care for a family member (broadly defined) with a mental or physical illness, injury, or health condition and for doctor's appointments, preventative care and treatment.
- When the employee's place of business has been closed for any health-related reason, or when an employee's child's school or place of care has been closed for such a reason.
- Absences that qualify for leave under the Domestic Violence Leave act

Employees who are employed on January 1, 2018, accrue paid leave for all hours worked beginning on that date. Employees hired after January 1, 2018, accrue from the first day of employment.

Employees are entitled to use accrued Paid Sick Leave on the 90th calendar day after commencement of employment.

There is no cap on the number of hours that may accrue, so, for example, if an employee works 80 hours per week, 50 weeks per year, the employee may accrue 100 hours in a given year. However, an employee may only carry-over 40 hours of the accrued, unused leave into the following benefit year.

Leave is paid at the greater of the minimum wage or the employee's "normal hourly compensation" and different compensation calculations are required for employees who are paid on a non-hourly rate of pay basis, such as commissioned and flat rate employees.

Employers are not required to pay out any unused accrued paid sick leave at termination or resignation of employment, but if an employee is rehired within 12 months of separation, the previous eligibility and accrued leave must be reinstated.

If the absence exceeds three days, an employer may require verification that the leave is for an authorized purpose, unless the verification creates an unreasonable burden or expense to the employee.

Employers must post rights to paid sick leave, and provide regular notice to employees about the amount of sick leave available to them. The statute also prohibits any form of retaliation against employees for using statutorily protected paid leave benefits.

This article was written by Valarie Zeeck, Chair of the Business & Employment Practice Group at Gordon Thomas Honeywell. The employment lawyers at GTH, including Ms. Zeeck, Warren Martin, Shelly Andrew, Amanda O'Halloran, Patricia Pearson and Steven Fawcett, are prepared to assist with questions on this complex topic.