

January 10, 2021

COVID-19 Relief Legislation – Employee Sick Leave Benefits Comparison Chart

Introduction: This chart is meant to provide an easy-to-read comparison of recently enacted COVID-19 relief legislation. The four (4) pieces of legislation which will be covered are the Families First Corona Response Act, the Supplemental Paid Sick Leave Act, California Assembly Bill 685, and California Senate Bill 1159.

Summary of Legislation: Each piece of legislation will be summarized below.

Families First Corona Response Act (CARES Act): The Families First Corona Response Act, herein referred to as the “CARES Act,” provides full-time employees with up to eighty (80) hours of paid sick leave if they can show they meet certain provisions. Part-time employees are also covered by the CARES Act. However, they will only be entitled to pay for the number of hours that an employee works during an average two (2) week period. Employees may not extend their eighty (80) hour allotment if it has been completely used. This Act only applies to employers with fewer than 500 employees.

An employee is entitled to this sick leave if they are unable to work due to illness from COVID-19, must quarantine due to COVID-19, must provide childcare due to COVID-19, or they have a family member who is ill from COVID-19 and needs assistance. This provision ended on December 31, 2020; however, employers may voluntarily extend sick leave benefits until March 31, 2021.

COVID-19 Supplemental Paid Sick Leave (SPSL) – California: The Supplemental Paid Sick Leave Act, herein the “SPSL,” is a supplement bill, passed in California, which extends CARES Act provisions to more employees. The SPSL provides the same sick leave provisions as the CARES Act, however, this legislation applies to employers with 500 or more employees. There are no childcare provisions in the SPSL. This provision ended on December 31, 2020; however, employers may voluntarily extend sick leave benefits until March 31, 2021.

California Assembly Bill 685 & Cal OSHA Guidance: Under California Assembly Bill 685, employers are required to notify their employees, and the state, if an employee is COVID-19 positive on the jobsite. Further, under recently enacted CAL-OSHA emergency regulations, employers must provide for and cover the costs of a COVID-19 prevention program. To comply with these emergency temporary standards, an employer must develop a written COVID-19 Prevention Program by implementing written procedures that communicate the employer’s COVID-19 prevention procedures. These procedures should include physical distancing and face covering standards in the workplace, procedures to investigate and respond to positive COVID-19 cases on jobsites, COVID-19 training for employees, provide testing for employees exposed

to COVID-19, exclusion of COVID-19 cases and exposed employees until they are no longer an infection risk, and maintaining records of COVID-19 cases and reporting to Cal/OSHA and local health department, as required. There are also provisions for paid time off based on workplace exposures and workplace shutdowns.

California Senate Bill 1159: In May, California Governor Newsom signed Executive Order N-62-20, which created a rebuttable presumption that certain employees who test positive for COVID-19 contracted the virus at work for workers' compensation purposes.

Comparison Chart: The comparison chart is on the next page.

	Families First Corona Response Act (CARES Act)	COVID-19 Supplemental Paid Sick Leave (SPSL) – California	California Assembly Bill 685 & Cal OSHA Guidance	California Senate Bill 1159
<u>Applies To:</u>	Employers with fewer than 500 employees.	Employers with 500 or more employees.	All employers in California.	CA. employers with five (5) or more employees
<u>Dates Effective:</u>	Effective from April 1, 2020 thru December 31, 2020. Employee sick leave provisions extended until March 31, 2021 if employer voluntarily agrees to extend.	Effective for food industry employees from April 16, 2020; Extended to all employees from September 19, 2020. Provision Expired on December 31, 2020. Was extended until March 31, 2021 if employer voluntarily agrees to extend. (Same provision as the CARES Act).	California Assembly Bill 685 - Effective from January 1, 2021. CAL-OSHA Emergency Temporary Standards – Effective from November 30, 2020.	Effective from July 6, 2020, thru January 1, 2023.
<u>Employees Covered:</u>	Employees who work from an employer with fewer than 500 employees. Unless the employer has 50 or fewer employees, and the sick leave compensation is being requested due to childcare concerns	For employers with 500 or more employees: All food industry employees from April 16, 2020; All other employees from September 19, 2020. The SPSL only applies to employees who must leave their house for work.	All California Employees.	Employers with five (5) or more employees.

	Families First Corona Response Act (CARES Act)	COVID-19 Supplemental Paid Sick Leave (SPSL) – California	California Assembly Bill 685 & Cal OSHA Guidance	California Senate Bill 1159
<u>Applies When:</u>	<p>If the employee is unable to work (or telework) due to a need for leave because:</p> <p>(1) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.</p> <p>(2) The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.</p> <p>(3) The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.</p> <p>(4) The employee is caring for an individual who is subject to an order as described in subparagraph (1) or has been advised as described in paragraph (2).</p> <p>(5) The employee is caring for a son or daughter whose school or place of care has been closed, or whose childcare provider is unavailable, for reasons related to COVID-19.</p>	<p>If the food sector worker or non-food sector employee is unable to work for the following reasons:</p> <p>(1) They are subject to a Federal, State, or local quarantine or isolation order related to COVID-19;</p> <p>(2) They are advised by a health care provider to self-quarantine or self-isolate due to concerns related to COVID-19; or</p> <p>(3) They are prohibited from working by the hiring entity due to health concerns related to the potential transmission of COVID-19. Childcare is not covered under the SPSL.</p>	<p>Where there is a worksite exposure, sick leave requirements apply when an employee is unable to work due to a COVID-19 positive test, an exposure on the jobsite, or if their jobsite is closed due to a COVID-19 outbreak.</p> <p>Under the CAL-OSHA standards, employers must provide PPE to employees, trace potential COVID-19 exposures and notify all affected employees within one (1) business day. Onsite testing must also be offered, at no cost, during work hours if there has been an exposure. This time must be compensated. Employees may return to work only after twenty-four (24) hours have passed since they have had a fever over 100.4 degrees, they have been cleared by a medical professional, or there has been ten (10) days since their first symptoms.</p>	<p>Applies to workers compensation and temporary benefit cases only. This provision applies only after an employee has used all of their allotted COVID Sick Leave pay. (i.e. once an employee has used their 80 hours of sick leave, they may then apply for workers compensation, and use this rebuttable presumption).</p> <p>The rebuttable presumption is only applied if the employee works for an employer with five or more employees and the employee tests positive for COVID-19 within 14 days after reporting to their place of employment during a COVID-19 “outbreak” at the employee’s specific workplace.</p>

	Families First Corona Response Act (CARES Act)	COVID-19 Supplemental Paid Sick Leave (SPSL) – California	California Assembly Bill 685 & Cal OSHA Guidance	California Senate Bill 1159
<u>Amount of Paid Leave:</u>	<p>Full-time employees: 80 hours;</p> <p>Part-time employees: The number of hours the employee is normally scheduled to work over two workweeks. Those with variable schedules are entitled to 14 times the average number of hours they worked per day over the past 6 months.</p>	<p>Full-time employees and those workers who were scheduled to work for the hiring entity an average of 40 or more hours per week in the two weeks before leave was taken: 80 hours;</p> <p>Part-time employees: The number of hours the employee is normally scheduled to work over two workweeks. Those with variable schedules are entitled to 14 times the average number of hours they worked per day over the past 6 months.</p>	<p>CAL-OSHA regulations state that employers are required to provide paid sick leave to employees that test positive for COVID-19 contracted at the workplace, employees who are quarantining due to close contact or exposure to COVID-19 at the workplace, or if an employee is able and willing to work and the employer has closed full or partial operations due to a positive COVID-19 case. An employer may require an employee to use their federal or state allotted sick leave prior to paying out sick leave.</p>	<p>Employees will be entitled to temporary disability benefits.</p>
<u>Wage Rate:</u>	<p>Higher of regular rate or minimum wage rate, not to exceed \$511 per day and \$5,110 in total</p>	<p>Highest of regular rate of pay for last pay period, State minimum wage, or local minimum wage, not to exceed \$511 per day and \$5,110 in total.</p>	<p>Regular wage rate applies.</p>	<p>Payments provided through disability benefits.</p>

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<u>Notices Required</u>	No notice requirements.	Under California law, hiring entities are required to display the applicable poster(s), in a conspicuous place that contains information about COVID-19 Supplemental Paid Sick Leave. Employers will need to select the appropriate notice(s) to post. If a hiring entity’s covered workers do not frequent a workplace, the hiring entity may satisfy the notice requirement by disseminating notice through electronic means.	Employees are required to be notified by their employer within twenty-four (24) hours once the employer is on notice of an outbreak in their facility, and the employee was on the premises while an infected employee was also present. Unions must also be notified if their members are affected by a COVID exposure.	Employees must be certified as disabled by a licensed physician within fifteen (15) days of their diagnosis. Employee must re-certify every fifteen (15) days. Employers must report any positive COVID tests to their claim’s administrator within three (3) business days of a positive test.
<u>Statute:</u>	Families First Coronavirus Response Act, Public Law 116-127	Labor Code section 248.1	Assembly Bill 685	Senate Bill 1159
<u>Employer Ability to Recoup Sick Leave Payments</u>	Employers will be able to recoup their sick leave payments through tax credits from the Federal Government.	Employers will be able to recoup their sick leave payments through California tax credits.	Employees may be required to use CARES Act or SPSL sick leave first.	Workers compensation insurance.