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April 14, 2020

Los Angeles Modifies COVID-19 Supplemental Paid Leave Ordinance

Update: On May 19, 2020, Mayor Eric Garcetti revised the [COVID-19 Supplemental Paid Sick Leave Order](#) (originally issued on April 7, 2020). The Order modifies the exemption for businesses that were closed or not operating as follows (see bold and stricken language):

Closed or Not Operating: Employers that were closed or not operating for 14 or more **consecutive calendar** days due to a city official's emergency order (not limited to Los Angeles' emergency orders) because of the COVID-19 pandemic. or "provided at least 14 days of leave."

Original text: Los Angeles Mayor Eric Garcetti has modified the previously passed COVID-19 Supplemental Paid Sick Leave Ordinance by issuing a public order under City of Los Angeles Emergency Authority. The enacted ordinance can be found [here](#) and the new public order can be found [here](#).

The mayor's public order is immediately effective and will remain in effect until two weeks after the expiration of the local emergency period. The public order makes the following modifications to the COVID-19 Supplemental Paid Sick Leave Ordinance:

- **Employer Qualifications:** Employers with 500 or more employees within the city of Los Angeles or with 2,000 or more employees within the United States are required to provide supplemental paid leave, subject to the exemptions described below.
- **Medical Documentation:** The public order provides that an employer may not require a doctor's note or other medical documentation for the use of supplemental paid sick leave.
- **Teleworkers:** In order to qualify for supplemental paid leave, the employee must be unable to work or telework.
- **Categories One and Four Adjustments:** The four categories of qualifications for supplemental paid leave are restated here for ease of reference with the modifications appearing in bold (they can also be found [here](#)):
 1. The employee takes time off work **due to COVID-19 infection** or because a public health official or healthcare provider requires or recommends the employee isolate or self-quarantine to prevent the spread of COVID-19.
 2. The employee takes time off work because the employee is at least 65 years old or has a health condition, such as heart disease, asthma, lung disease, diabetes, kidney disease, or weakened immune system.
 3. The employee takes time off work because the employee needs to care for a family member who is not sick but who public health officials or healthcare providers have required or recommended isolation or self-quarantine.
 4. The employee takes time off work because the employee needs to provide care for a family member whose senior care provider or whose school or childcare provider (providing care for a child under 18 years of age) temporarily ceases operations in response to a public healthcare or other public official's recommendation. **An employee can only qualify for supplemental paid leave if he or she is unable to secure a reasonable alternative caregiver** (similar to the amendment to the federal Families First Coronavirus Response Act).
- **Exemptions:** The Los Angeles supplemental paid leave exemption has been broadened from only covering first responders and healthcare providers to include the following types of employers (who are not subject to the Supplemental Paid Sick Leave Ordinance while the public order is in effect):

1. **Emergency and Health Services Personnel:** Employers of healthcare workers and emergency personnel (including first responders, gang and crisis intervention workers, public health workers, emergency management personnel, emergency dispatchers, law enforcement personnel, and related contractors as well as others working for emergency services providers.) Healthcare worker is defined in California Government Code Section 12945.2(c)(6) and includes individuals, including contract workers, working at a health facility licensed under California Health & Safety Code Section 1250.
 2. **Closed or Not Operating:** Employers that were closed or not operating for 14 or more days due to a city official's emergency order (not limited to Los Angeles' emergency orders) because of the COVID-19 pandemic or "provided at least 14 days of leave."
 3. **Employers That Already Offer At Least 160 Hours of Paid Leave:** Employers that have paid leave or paid time off policies that provide 160 hours or more of paid leave annually are exempt only as to those employees "that received the more generous paid leave."
 4. **Critical Parcel Delivery:** Employers of employees that provide global parcel delivery services.
 5. **Government:** Government agencies when their employees are working within the course and scope of their public service
 6. **New Businesses:** New businesses that started in the city of Los Angeles or those that relocated from outside the city on or after September 4, 2019, through March 4, 2020. Employers cannot have been in business in the city during the 2018 tax year. Note that construction businesses (as defined in Section 21.30 b.1 of the Los Angeles Municipal Code) and film producers (as defined in Section 21.109 of the Los Angeles Municipal Code) do not qualify under the new business exemption.
- **Collective Bargaining Agreement Exemption:** The order broadens the provision on collective bargaining agreements (CBAs) to provide that CBAs in place that already provide for COVID-19 related sick leave are exempt.

In light of this new public order which modifies the previous ordinance, employers who have workers and/or a business in the city of Los Angeles should consult with experienced employment counsel to ensure they are in compliance.

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