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## Publication

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### Coronavirus Relief Act – Summary of the Emergency Paid Sick Leave Act (EPSLA)

**Expiration:** December 31, 2020

**Covered Employers:** Fewer than 500 employees

**Paid Sick Time Eligibility:** Available for immediate use by employee, regardless of how long employee has been employed by an employer

**Paid Sick Time Requirement.** Covered employers must provide its employees with paid sick time to the extent that the employee is unable to work (or telework) due to a need for leave because of any of the following:

1. Employee is subject to a federal, state or local quarantine or isolation order related to COVID-19.
2. Employee has been advised by health care provider to self-quarantine due to concerns related to COVID-19.
3. Employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis.
4. Employee is caring for an individual subject to: the above quarantine or isolation order (1); or the above self-quarantine instruction (2).
5. Employee is caring for a son or daughter if the school or place of care of the son or daughter has

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been closed, or the child care provider is unavailable, due to COVID-19 precautions.

6. Employee is experiencing any other substantially similar condition as specified by the Secretary of Health and Human Services.

**Exclusion:** Employers of employees who are health care providers or emergency responders may exclude employees from the paid sick time requirements.

**Duration of Paid Sick Time.** Paid sick time entitlement is as follows:

- Full-time employees – 80 hours
- Part-time employees – the hours equal to the number of hours that the employee works on average over a two-week period

**Calculation of Paid Sick Time:** Pay for sick time is the greater of: (a) the employee's regular rate of pay; (b) the federal minimum wage; or (c) the state or local minimum wage (whichever is greater). HOWEVER, if paid sick time is taken for reasons (4), (5), or (6) above, the required pay is two-thirds of this amount.

**Calculating Pay for Varying Schedule:** For part-time employees whose schedules vary from week to week, and employer is unable to determine with certainty the number of hours the employee would have worked if the employee had not taken paid sick time, employer should use the following:

- The average number of hours the employee was scheduled per day over the six-month period ending on the date on which employee takes paid sick time (including hours for any leave taken).
- If employee has not worked six months, then the reasonable expectation of the employee at the time of hiring of the average number of hours per day



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that the employee would normally be scheduled to work.

**Cap on Paid Sick Time:** Paid sick time is limited to:

- \$511 per day and \$5,110 in the aggregate for reasons (1), (2), or (3) above.
- \$200 per day and \$2,000 in the aggregate for reasons (4), (5), or (6) above.

**Reasonable Notice:** After the first workday an employee receives paid sick time, an employer may require the employee to follow reasonable notice procedures to continue receiving such paid sick time.

**No Carryover Rights.** Paid sick time under this emergency provision does not carry over from one year to the next.

**Termination of Paid Sick Time.** Paid sick time ceases on the employee's next scheduled work shift immediately following the termination of the need for paid sick time for one of the reasons above.

**Replacement Employees:** Employer cannot require employee using paid sick time to find a replacement to cover his or her hours during the time employee is using paid sick time.

**Substitution of Other Leave Prohibited:** Employer cannot require employee to use other paid leave provided by employer before employee uses emergency paid sick time.

**Posting Requirements:** Employer must post in conspicuous places where employee notices are customarily posted the notice prepared by the Secretary of Labor (a model notice will be available no later than seven days after enactment of these emergency provisions).



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**No Discrimination:** It is unlawful for an employer to discharge, discipline or discriminate against any employee who takes paid sick time, or has filed any complaint (or testified/will testify in any proceeding) related to this emergency paid sick time law.

If you have any questions regarding the Emergency Paid Sick Leave Act or other Labor and Employment issues, please do not hesitate to contact Jason Kim or your Neal Gerber Eisenberg attorney.

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