



Thursday March 19 COVID-19 (Coronavirus) Update

Last night, March 18th, two separate pieces of legislation were signed into law by President Trump and Governor Cuomo that will impact how employers in New York respond to the COVID-19 (Coronavirus) pandemic. It is important to note that in the coming days we are hoping for additional guidance from both the federal and state departments of labor on how the following provisions are to be implemented. Below is a summary of the federal and state legislation.

Federal Provisions

Paid Sick Leave- This provision applies to employees who are impacted by one of the following conditions:

1. Under quarantine/isolation due to a federal/state/local order relating to COVID-19
2. Recommendation of a healthcare provider relating to COVID-19
3. Experiencing symptoms and seeking diagnosis related to COVID-19
4. Caring for someone under condition 1 or 2
5. Caring for a son or daughter if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions.
6. Any substantially similar situation due to a declaration by the Secretary of Health and Human Services

This paid sick leave must be available to all employees, upon hire, as follows:

- Full time employees are eligible for 80 hours
- Part-time employees are eligible for the number of hours they work on average in a two-week period

This pay is at your regular rate, capped at \$511 per day for your own quarantine and/or illness, and \$200 if you are caring for someone else. This benefit expires December 31, 2020.

Employers may not require employees to use other paid leave benefits before this paid leave.

Employers will be eligible for tax credits

Emergency Family and Medical Leave to care for a child The bill includes a temporary expansion of the Family and Medical Leave Act (FMLA) which will expire on December 31, 2020. This specific expansion applies to all employers with fewer than 500 employees. Employers with fewer than 50 employees may

be exempt if the imposition of the provisions would jeopardize the viability of the business as a going concern.

An employee would be eligible to take up to 12 weeks of job-protected leave if they've worked for the organization for at least 30 days. It includes both full and part-time employees.

To qualify the employee must be unable to work or telework to provide childcare to their son or daughter under 18 enrolled in an elementary or secondary school that is currently closed in response to the COVID-19 public health emergency or their childcare provider is unavailable.

The leave will consist of a 10-day waiting period, presumably during which the employee is using paid sick leave as provided above. After 10 days the employee is paid at 2/3rds their regular rate, not to exceed \$200 per day, with a \$10,000 aggregate cap.

This is job-protected leave, which means once the leave is complete the employee must be returned to the same position or a substantially similar position with the same pay and benefits. Employers with fewer than 25 employees are exempt from this provision if the position no longer exists due to economic conditions or changes to operating procedures caused by the public health emergency.

Certain organizations involved in health care delivery or emergency response are exempt from these provisions.

New York Paid Leave for Quarantine/Isolation

Paid Leave- To address the immediate need of employees affected by COVID-19 who are subject to mandatory or precautionary orders of quarantine or isolation, and is effective immediately. The bill includes the following provisions:

- Employers with 10 or fewer employees and a net income less than \$1 million will provide job protection for the duration of the quarantine order and guarantee their workers access to Paid Family Leave and disability benefits (short-term disability) for the period of quarantine including wage replacement for their salaries up to \$150,000.
- Employers with 11-99 employees and employers with 10 or fewer employees and a net income greater than \$1 million will provide at least 5 days of paid sick leave, job protection for the duration of the quarantine order, and guarantee their workers access to Paid Family Leave and disability benefits (short-term disability) for the period of quarantine including wage replacement for their salaries up to \$150,000.
- Employers with 100 or more employees, as well as all public employers (regardless of number of employees), will provide at least 14 days of paid sick leave and guarantee job protection for the duration of the quarantine order.

Cuomo Orders 75% Reduction of In-Person Workforce

By Executive Order Governor Cuomo is ordering employers to reduce their in-

person workforce to just 25% of employees by 8 P.M. Friday March 20. For employers subject to the order, the more you can equip your employees to work from home the less disruptive this will be for your operations.

There are also exemptions for organizations in “essential industries,” which include*:

- Health care operations, including research and laboratory services
- Infrastructure, including utilities, telecommunication, airports, and transportation infrastructure
- Manufacturing, including food processing and pharmaceuticals
- Retail, including grocery stores and pharmacies
- Services, including trash collection, mail, and shipping services
- News media
- Banks and related financial institutions
- Providers of basic necessities to economically disadvantaged populations
- Construction
- Vendors of essential services needed to maintain the safety, sanitation, and essential operations of residences or other essential businesses
- Vendors that provide essential services or products, including logistics and technology support, child care, and services needed to ensure the continuing operation of government agencies and provide for the health, safety, and welfare of the public

*As this continues to be a developing situation the list is subject to change.