

Labor and Employment Alert

June 28, 2013

New York City Earned Sick Time Act

Most New York City-based companies soon will have a new legal obligation to their employees – the provision of mandatory paid sick leave.

Yesterday, the New York City Council overrode Mayor Michael Bloomberg's veto of the Earned Sick Time Act ("ESTA"), which requires New York City-based businesses to provide up to five days of paid sick leave to their employees annually. The new law permits employees to use paid time off for their own physical or mental illness, injury or medical care, or for that of a spouse, domestic partner, child or parent. Employees also can use the mandatory paid sick leave during declared public emergencies.

The ESTA imposes new financial, compliance and administrative burdens on employers. The law will be enforced by the New York City Department of Consumer Affairs ("DCA"), which will receive complaints of non-compliance from employees, investigate those complaints, attempt mediation and hold administrative hearings when necessary. Complaining employees will be permitted to go to court only after the DCA has issued a final ruling with respect to their complaint.

Companies with 20 or more employees in New York City must begin complying with the ESTA starting in April 2014. Those with 15 or more employees in the city must comply with the law starting in October 2015. To the extent covered companies already provide employees with paid time off that can be used for the purposes enunciated in the ESTA, the new law does not require the provision of additional paid sick time. Certain businesses, such as manufacturing businesses and small businesses that operate on a month-to-month cash flow, are exempt from the new law.

With yesterday's enactment, New York City joins San Francisco, Washington, D.C., Seattle, Portland and the state of Connecticut as jurisdictions with mandatory sick leave laws. Similar measures have been blocked in other jurisdictions.

Companies should remain informed of developments in this area, as the landscape is ever-changing and obligations vary from location to location.

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