

## Labor and Employment

March 26, 2014

### New York City Earned Sick Time Act Amendments

Last week, Mayor Bill de Blasio signed legislation expanding the Earned Sick Time Act (“ESTA”) for New York City-based employers – just in time for its impending effective date on April 1st.

#### Expansion of Terms

As we advised in a previous client alert, the New York City Council enacted ESTA in June 2013, overriding former Mayor Michael Bloomberg’s veto. Under the provisions of ESTA, employers are required to provide one (1) hour of paid sick leave for every thirty (30) hours that an employee works, up to a maximum of forty (40) hours per calendar year (or approximately five (5) days of paid sick leave for full time employees). Sick leave may be used by employees for their own physical or mental illness, injury, or medical care; to care for a family member; or in the event of declared public health emergencies. Under the original version of ESTA, “family member” was defined as a spouse or domestic partner, child, parent, or the child or parent of a spouse or domestic partner. Last week, this definition was expanded to include an employee’s or their spouse’s or domestic partner’s grandparent, grandchild, or sibling.

#### Expansion of ESTA’s Reach

The amendments to ESTA also broaden its reach. First, where the law initially only covered employers with twenty (20) or more employees (and fifteen (15) or more employees after a phasing-in period), ESTA now applies to all employers with five (5) or more employees. Employers with less than five (5) employees still must provide job-protected sick leave in accordance with the provisions of the law, but the leave may be unpaid. Second, the law has been broadened to include employers in the manufacturing sector and other small businesses, which previously were exempted.

#### Expansion of Administrative Requirements

As originally enacted, ESTA’s notice requirements only applied to a covered employer’s new hires. In light of the amendments, notice now also must be distributed to all current employees. Employers must provide the notice immediately to any new hires beginning employment after April 1, 2014, and must distribute the notice to current employees no later than May 1, 2014. The notice must also be conspicuously posted in workplace beginning May 1, 2014.

While the New York City Department of Consumer Affairs generally is responsible for policing and enforcing ESTA, the Mayor now also may appoint additional agencies to perform such duties, including receiving and investigating complaints for violations of the law. The deadline for filing a complaint under the law also has been expanded from 270 days to 2 years, and employers must retain relevant employee records for 3 years.

**Existing Employer Policies**

If an employer's existing paid time off policies, including sick, vacation, and personal days, already provide for comparable or more generous paid leave for employees, ESTA does not require the employer to provide additional sick time, as long as paid time off may be taken by the employee for the reasons specified in the law.

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In addition to the items discussed above, the law includes provisions regarding addressing ESTA in collective bargaining agreements for unionized workforces, conditions for paying out employees versus carrying over accrued and unused sick leave at the end of the calendar year, requiring employees to provide advance notice for use of planned sick leave, and requesting medical documentation for absences under the law. Employers should speak with legal counsel if they have any questions regarding compliance with ESTA or if they need help amending their employment policies to conform to the requirements of the law.

## Contact Information

If you have any questions regarding this alert, please contact:

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