

OCTOBER 2015

Following is TPO's recap of CA's mandatory Paid Sick Leave (PSL) with yellow highlights representing areas of change with the 7/13/15 "clean-up" law.

Employers who revised/created their policies to comply with PSL prior to 7/1/15 **may** choose to make further revisions in light of the "PSL clean-up" law, though revisions are not required and some employers may choose to not further revise their policies.

The Department of Industrial Relation's (DIR's) website was updated in October 2015 to reflect the 7/13/15 law (http://www.dir.ca.gov/DLSE/Paid_Sick_Leave.htm).

Effective 7/1/2015 **CA employers** must allow **all** employees (full-time, part-time, seasonal/temporary, and out-of-state employees working in CA) to take up to 24 hours or 3 days of PSL a year. *PSL does not apply to specific union contracts, publicly funded in-home supportive services, **specified retired annuitants**, or air carrier employees. Two methods to choose from:

1. **"Up-Front" Method:** Providing 24 hours or 3 days upon hire/re-hire and at the beginning of each year eliminates the need to accrue and carryover PSL.

2. **"Accrual" Methods:** Three Choices:

A. **Statutory Method** for plans created **after** 1/1/2015: Employees **accrue** 1 hour of Paid Sick Leave (PSL) for every 30 hours worked (the accrual can be capped at 48 hours or 6 days).

B. **Alternative Method** for plans created **after** 1/1/2015: The accrual is on a regular basis and the employee will have 24 hours of accrued sick leave available by the 120th calendar day of employment.

Example: Plans that accrue at least 9 days a year will meet this requirement.

C. **Grandfather Method** for sick plans in effect **prior** to 1/1/2015: Provided the sick or paid time off (PTO) policy accrual is on a regular basis so that an employee, including an employee hired into that class after January 1, 2015, has no less than one day or eight hours of accrued sick leave or paid time off within three months of employment of each calendar year, or each 12-month period, and the employee was eligible to earn at least three days or 24 hours of sick leave or paid time off within nine months of employment.

Example: Plans that begin accrual upon hire and annually accrue at least 4 days will meet this requirement.

Common to each of the above three methods: The employee's **use** of PSL can be limited to 24 hours or 3 days each year.

Unused PSL must **carry-over** to the next year, but a cap of 48 hours or 6 days may be used.

Employees rehired within one year must have the previous accumulation reinstated.



Applies to Both “Up-Front” and “Accrual” Methods:

- ❑ Accrual of PSL begins **upon hire**, however the employee must have actually **worked** 30 days in California in the year to be eligible, and employees are not entitled to use PSL days until being **employed** for 90 days.
- ❑ Employees may use PSL for their own health condition; a family member’s health condition (child, spouse, registered domestic partner, parent, grandparent, grandchild, and sibling); and if the employee is a victim of domestic assault, sexual violence or stalking.
- ❑ Employees may use PSL for an actual health condition or for preventative care.
- ❑ For employees on an Alternative Workweek, use the number of hours of their regular “day”. For example, a 4/10 schedule would mean 30 hours of PSL (not 24).
- ❑ There is NO requirement to pay for unused PSL upon separation of employment.
- ❑ Employers may not discriminate or retaliate against an employee’s request/use.
- ❑ PSL can be paid using any of the following methods:
 1. The regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek.
 - “Regular rate” includes all hourly earnings, plus commissions, production bonuses, piece work earnings and the value of meals and lodging.
 2. Dividing the employee’s total wages, not including overtime premium pay, by the employee’s total hours worked in the full pay periods of the prior 90 days of employment.
 - Like regular rate, total wages includes commission, piece rate, pay differentials, etc.
 3. For exempt employees only, calculated in the same manner as the employer calculates wages for other forms of paid leave time.

For Employers Already Offering Sick Time or Paid Time Off (PTO):

Make sure your current policy provides **at least** the points listed above. Many employers will have to revise their policies by broadening eligibility to temporary and part-time workers (many employers’ current policies are just for “regular, full-time employees”), revising the reasons for use, and may need to expand accrual and carry over amounts.

Another option is to leave existing sick/PTO policy accrual/caps (if they are at least as good as PSL requirements) and create a separate PSL policy for those who are not eligible for the organization’s sick/PTO policies.

Other Considerations for Employers:

- ❑ Keep accurate **records** of PSL earned and taken for three years. List on **pay stubs** or other documents provided on payday, indicating the amount of PSL available.
- ❑ **Post as of 1/1/15:** [http://www.dir.ca.gov/DLSE/Publications/Paid_Sick_Days_Poster_Template_\(11_2014\).pdf](http://www.dir.ca.gov/DLSE/Publications/Paid_Sick_Days_Poster_Template_(11_2014).pdf)
- ❑ **Distribute** as of 1/1/15 a revised “Notice to Employee” to new hires now, and to others when policy changes are implemented [http://www.dir.ca.gov/DLSE/Publications/LC_2810.5_Notice_\(Revised-11_2014\).pdf](http://www.dir.ca.gov/DLSE/Publications/LC_2810.5_Notice_(Revised-11_2014).pdf)

Contact your TPO Consultant for more information and to discuss what revisions to your policies may be appropriate.