

Blog Post

New Sick Leave Entitlements for Quarantined NY Employees and More Coming

March 19, 2020

Immediate pay and job protection for New Yorkers quarantined as a result of the coronavirus (COVID-19), as well as comprehensive paid sick leave that will impact all employers within six months, will be enacted imminently into law, Governor Cuomo of New York has announced.

Originally designed as one bill, New York lawmakers and the Governor reached agreement on the quarantine and sick leave bills this week.

As to the quarantine bill, effective immediately upon passage, the bill provides:

- Employers with 10 or fewer employees as of January 1, 2020, and that have a net income of one million dollars (\$1,000,000) or less in the previous tax year, shall provide each employee who is subject to a quarantine order due to COVID-19 with **unpaid sick leave until termination of such quarantine order**;
- Employers with 10 or fewer employees as of January 1, 2020, and that have a net income of more than one million dollars (\$1 million) in the previous tax year, and employers with between 11 and 99 employees as of January 1, 2020 shall provide each employee who is subject to a quarantine order due to COVID-19 with **at least 5**

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days of paid sick leave and unpaid leave until termination of such quarantine order; and

- Employers with 100 or more employees as of January 1, 2020, shall provide each employee who is subject to a quarantine order due to COVID-19 with at least **14 days of paid sick leave during such quarantine order.**

The leave under the quarantine bill will not be provided:

- In cases where the employee is asymptomatic or has not yet been diagnosed with any medical condition and the employee is physically able to work while under the quarantine order (whether through remote access or other similar means); or To employees who wish to self-quarantine absent authorized orders, as authorized quarantine orders under the bill are orders of precautionary or mandatory quarantine or isolation issued by the state of New York, the Department of Health, local board of health, or any government entity authorized to issue such orders due to COVID-19.
- In addition, the above quarantine-related leaves are job-protected, subject to non-retaliation provisions, and must be provided without loss of an employee's accrued sick leave (i.e., **in addition to existing accrued sick leave** under applicable employer policies).

Finally, state-sponsored paid family leave benefits (PFL) and disability benefits will be expanded under the quarantine bill to cover employees under a quarantine order (and, for purposes of PFL, employees caring for a minor child under a quarantine order), and PFL and disability benefits may run concurrently with unpaid portions of the quarantine leave, with the PFL cap remaining at \$840.70 per week and disability leave benefits at a cap of \$2,043.92 per week.

In addition, a comprehensive paid sick leave that will impact **all employers** will likely be effective within

approximately six months. Governor Cuomo's office stated that the agreed-upon bill will be part of the upcoming state budget. The bill provides in part:

- Employers with 4 or fewer employees in any calendar year, and that have a net income of one million dollars (\$1 million) or less in the previous tax year, shall provide each employee with up to 40 hours of **unpaid** sick leave in each calendar year;
- Employers with 4 or fewer employees in any calendar year, and that have a net income of more than one million dollars (\$1 million) in the previous tax year, and employers with between 5 and 99 employees in any calendar year shall provide each employee with up to 40 hours of **paid** sick leave in each calendar year; and
- Employers with 100 or more employees in any calendar year shall provide each employee with up to 56 hours of **paid** sick leave in each calendar year.

Sick leave under the bill will be job-protected and subject to non-retaliation provisions.

Akerman continues to follow COVID-19 developments as they impact the workplace and will provide frequent updates on those developments. For assistance addressing issues in your workplace, contact your Akerman attorney.

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