

Effective TODAY! *Revised* San Diego Minimum Wage and Paid Sick Leave Ordinance

By Annie Macaleer

In previous updates from earlier this summer, we alerted employers about the San Diego Earned Sick Leave and Minimum Wage Ordinance (“Ordinance”), advising employers that the “original” Ordinance (effective July 11) would eventually be revised into an “implemented” Ordinance (effective sometime in September). The Office of Enforcement (the agency tasked with enforcing the Ordinance in San Diego) finalized the language in the implemented Ordinance and the effective date is **TODAY, September 2.**

The implemented Ordinance contains the following critical changes, among others (the full text of the implemented Ordinance is available [here](#)¹):

- Employers may impose a use limit of 40 hours of paid sick leave (“PSL”) per 12-month period.
- Employers may impose a cap on an employee’s accrual of PSL of 80 hours (or twice the annual use limit).
- Employers may comply with the PSL provisions by using a lump sum, allotment, or frontloading option.
- Employers may use PTO policies and collective bargaining agreements to comply with the PSL provisions of the law. However, they are strongly encouraged to consult with counsel given the complexities and nuances with such an approach.
- The Office of Enforcement is required to publish the notices and posters that employers are required to provide to employees pursuant to the Ordinance by September 1, 2016 (yesterday). Employers are required to provide the individual notices to employees by **October 1, 2016.** Employers are encouraged to periodically check the Office of Enforcement’s [website](#) for updates regarding these materials. Although the website currently contains notices and posters, these will be updated with language to comport with the implemented Ordinance.
- The enforcement, penalties, and retaliation provisions were further heightened.

Compliance Task List for Employers

For those employers operating within the City of San Diego or with employees working within the City of San Diego, below is a critical “to do” list:

- Employers should ensure that their PSL or PTO policies are fully revised to comply with the final language of the implemented Ordinance and provided to employees by today, September 2.

¹ The City Council plans to consider *further* changes in mid-September that will impact this provision: “An Employer who provides greater paid time off, either through a contract, collective bargaining agreement, employment benefit plan, or other agreement, than that required by this Division, is deemed to be in compliance even if the Employer utilizes an alternative methodology for calculation of, payment of, and use of Earned Sick Leave or other paid time off that can be used as Earned Sick Leave.” § 39.0104(g).

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- Employers should post the current posters from the Office of Enforcement’s website in the workplace but regularly check the website for revised posters and notices, which must be posted and distributed by October 1.

Employers are strongly encouraged to consult their legal counsel when implementing these changes to ensure compliance.

If you have questions about this alert, please contact Annie Macaleer.



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