

# Labor & Employment Law Alert: Employers Should Prepare for NYS Sick Leave Requirements

Our prior [alert](#) advised of the New York State FY 2021 Enacted Budget, which established New York Labor Law § 196-b. This new law imposes paid and unpaid sick leave requirements for private sector employers. The changes do not apply to public sector employers, the definition of which includes any governmental agency.

An employer's obligations under the new law are determined by number of employees and the employer's annual net income. Under New York Labor Law § 196-b, employers with four or less employees and annual net income of one million dollars or less are not required to provide paid sick leave but must give employees 40 hours of unpaid sick leave each year. Paid leave is required as follows:

- Employers with four or less employees but annual net income of more than one million dollars must provide at least 40 hours of annual paid sick leave.
- Employers with between five and 99 employees must provide at least 40 hours of annual paid sick leave.
- Employers with 100 or more employees must provide at least 56 hours of annual paid sick leave.

The obligation to provide sick leave does not start until January 1, 2021. However, employees must accrue sick leave beginning at the commencement of their employment or September 30, 2020, whichever is later. Sick leave may accrue at a rate as low as one hour of sick leave per 30 hours worked. Accrued but unused sick leave must carry over into the next year but can be capped at the applicable annual requirement. Alternatively, the full sick leave allotment may accrue automatically on January 1 of each year, effectively eliminating the need for carryover. But employers who elect this option must allot the full sick leave amount to all employees regardless of how many hours they work.

We strongly encourage employers to implement a written sick leave policy on or before September 30, 2020 that addresses the accrual and use of sick leave. This can be done through a standalone policy, or by modifying current employee handbooks. Most employers can mitigate the logistical and financial impact of this new requirement by modifying existing paid time off policies.

Our attorneys can help you quickly implement a policy that is legally compliant and meets the specific needs of your business. Please feel free to contact any of our firm's labor and employment attorneys for assistance.