

## EMPLOYEE BENEFITS

### ARIZONA'S PAID SICK DAY REQUIREMENTS – EFFECTIVE JULY 1 2017

by Sam Coffman

As you may be aware, Arizona's new paid sick time law goes into effect on July 1, 2017. Under the new law A.R.S. §§ 23-371 to -375 ("Statute"), all employees, including full-time, part-time, exempt and non-exempt, are entitled to paid sick leave. Failure to comply with the Statute can subject the employer to significant penalties. Below are some key points to help employers ensure company policies are in compliance with the new law.

#### The Accrual Process

- All employees begin accruing earned paid sick time at the commencement of employment or July 1, 2017, whichever is later.
- Employees accrue a minimum of one hour of earned paid sick time for every 30 hours worked. Employees who are designated as exempt under the Fair Labor Standards Act and paid a salary are treated as working 40 hours per week for accrual purposes (special rules apply for commissioned employees). The minimum requirement for paid sick time per year depends on how many employees an employer has.
  - ◊ Employers with 15 or more employees must give a minimum of 40 hours paid sick time per year. If an employer maintained 15 or more workers on payroll for a day in 20 different calendar weeks, it will be required to give 40 hours paid sick time per year per employee.
  - ◊ Employers with less than 15 employees must give a minimum of 24 hours paid sick time per year per employee.
- Earned but unused paid sick time carries over to the following year. However, use of paid sick time can still be confined to a yearly maximum, provided that the cap meets the statutory minimum outlined above.
  - In lieu of allowing unused paid sick leave to carry from one year to the next, employers can pay employees for unused sick time.

#### Separating Sick Time and PTO

All things equal, separating sick time and vacation time in policies may be a less risky manner to achieve compliance with the Statute. Nonetheless, The Industrial Commission of Arizona has indicated that employers that currently offer Paid Time Off (PTO) policies that cover both vacation and sick time may be in compliance so long as PTO granted to employees meets the requirements of the Statute.

#### Using Paid Sick Time

- Employees may use paid sick time as it is accrued, except that an employer can require new employees to wait 90 days before using any accrued paid sick leave.
- Paid sick time can be used in hourly increments.
- Employees may use earned paid sick time for themselves or for care of family members. This includes:
  - ◊ Medical care or mental or physical illness, injury, or health condition;
  - ◊ A public health emergency; (see A.R.S. § 23-373 for more information about what qualifies as a public health emergency); and
  - ◊ Absence due to domestic violence, sexual violence, abuse, or stalking.
- When an absence is foreseeable, an employee must make a good faith effort to provide notice in advance of the need to use earned paid sick time and should schedule the leave in a manner that does not unduly disrupt the employer's operation.
- Where earned paid sick time is used on three or more consecutive work days, an employer may require documentation that the earned paid sick time was used for purposes permitted by the Statute.
- Use of paid sick time must not be counted as an absence that may lead to an adverse action including discipline and discharge.
- If an employee is separated from employment but is reinstated within nine months of separation from the same job, any previously-accrued earned paid sick time that was not used must be reinstated and the employee is entitled to use and accrue earned paid sick time immediately at the re-commencement of employment.

#### Next Steps for Employers

- Current policies should be reviewed for compliance with the specifics of the Statute. If an employer's current paid sick leave is in excess of these requirements, it need not change company policy. Attention should be directed to the specific requirements including accrual and carry over as outlined above.

- The new law requires employers to keep employees up-to-date on the amount of earned paid sick time available, the amount of earned paid sick time taken to date in the year and the amount of pay received as earned paid sick time. These figures must be part of, or attached to, the employees' regular paychecks.
- Employers must notify employees of their right to paid sick time. For this purpose, the Industrial Commission of Arizona has created a poster, which can be found at its website, [www.azica.gov](http://www.azica.gov). Post this document in a place that is accessible to all employees (alongside of your other employment related posters is acceptable).

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