

> Client Alert

New York State DOL Issues Answers to Frequently Asked Questions Regarding Statewide Paid Sick Leave Law

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If you require any additional information regarding paid sick leave entitlements or any other employment issue, please contact any of the attorneys listed below.

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In an effort to provide clarity concerning New York State's Paid Sick Leave ("PSL") law, the New York State Department of Labor ("DOL") recently released answers to certain frequently asked questions ("FAQs") concerning the PSL law. As discussed in our previous client alerts on [March 18, 2020](#), and [September 25, 2020](#), the PSL law provides that all private sector workers in New York State are now covered under the PSL law, regardless of industry, occupation, part-time status, overtime exempt status, and seasonal status. The PSL law requires employers **with five or more employees** to provide their employees with paid sick and safe leave. Businesses with **fewer than five employees** and a net income of \$1 million or less are also required to provide sick and safe leave to employees but may do so on an unpaid basis.

The FAQs, which can be found [here](#), provide employers and employees alike with clear, concise guidance with respect to critical issues that may arise from time to time, including:

- How do employees accrue PSL?
- Can an employer require an employee to telecommute or work from home instead of taking PSL?
- What are permitted reasons to take PSL? (*i.e.*, for: (a) public health emergencies, such as the COVID-19 pandemic; (b) routine health care appointments; (c) bereavement leave or (d) mental illness.)
- If two individuals jointly own a business and the business fails to provide PSL, which owner is responsible?
- Are employers responsible to provide PSL to part-time seasonal workers?
- Does an employer have to provide sick leave to employees who telecommute outside of New York State under the PSL law?
- Can employees take PSL incrementally?
- What is the appropriate rate of pay to use for PSL eligible employees?
- What coverage does the PSL law provide for domestic workers?
- Are employers required to pay employees for lost tips and gratuities during sick leave under the PSL law?
- Do employers need to pay employees for unused sick leave at the end of the employment relationship under the PSL law?
- What is the interaction between rights under collective bargaining agreements and the PSL law?
- What are the notice requirements for employees prior to taking sick leave under the PSL law?

Again, the fully developed answers to these FAQs may be found in the DOL's new [guidance](#) as noted above.

Employers should also be reminded that, even though employees are not entitled to begin using PSL until January 1, 2021, employees started accruing PSL as of September 30, 2020.

Next Steps

Employers should review these FAQs and the DOL's responses thereto, as employees will undoubtedly raise questions concerning their eligibility for PSL. Employers should also proceed with reviewing and updating their employee handbooks and policies to provide sufficient notice to employees regarding PSL, and convey that such leave is job-protected, retaliation is prohibited, and any medical information shared with the employer shall be kept confidential.

The Morrison Cohen LLP Labor & Employment Team is available to provide legal advice on the PSL law and related leave entitlements discussed herein or such other employment law issues as needed.