

Nevada Mandates Paid Leave for Workers to Use for Any Reason

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On June 13, 2019, Nevada Governor Steve Sisolak signed [SB 312](#) (“Law”), which imposes new paid leave requirements on certain employers. Under the Law, Nevada employers with 50 or more employees in the state will be required to provide employees with at least 0.01923 hours of paid leave for each hour worked in a “benefit year,”¹ which employees may use *for any reason*. Under the statutory formula, an employee who works 40 hours a week will earn approximately 40 hours of paid leave a year. Regulations are expected to be promulgated soon, as the Law will become effective on January 1, 2020.

With the Law’s enactment, Nevada joins [Maine](#) as the second state to mandate paid leave for any reason. A number of other states (as well as the [District of Columbia](#)) have enacted paid sick and/or safe leave laws that limit the purposes for which leave may be used, including Arizona, [California](#), Connecticut, Maryland, [Massachusetts](#), [Michigan](#), [New Jersey](#), [Oregon](#), [Rhode Island](#), [Vermont](#), and Washington.

Covered Employers and Employees

All Nevada employers with 50 or more employees in the state are subject to the Law. However, the Law does not apply to temporary, seasonal, and on-call employees. The Law also provides exemptions for (i) employers in their first two years of operation, and (ii) employers that, pursuant to a contract, policy, or collective bargaining or other agreement, provide employees with paid leave or paid time off benefits that meet or exceed the Law’s requirements.

Accrual, Carryover, and Use of Paid Leave

Employers may limit the use of the paid leave to 40 hours within a benefit year. They also may either “frontload” paid leave (i.e., credit employees with the total amount of paid leave for a benefit year at the beginning of the benefit year) or require that paid

¹ The Law defines “benefit year” as a 365-day period used by an employer when calculating the accrual of paid leave. The employer determines what constitutes the “benefit year.”

leave be accrued over the course of the benefit year. If the accrual method is used, employees must be permitted to carry over accrued, unused paid leave to the following benefit year; however, employers may limit carryover to 40 hours. Employers that choose the frontloading method are not required to carry over an employee's accrued, unused leave to the following year.

In addition, the Law directs that four hours is the largest minimum increment of paid leave that employers may require employees to use at any one time. Employers also may require new employees to wait 90 days prior to using accrued paid leave. The Law does not require employers to pay employees for accrued, unused paid leave at the end of a benefit year or upon termination of employment.

Employers may not deny an employee the right to use accrued paid leave for any reason, require an employee to provide an explanation for using the paid leave, or instruct an employee to find a replacement as a condition to using paid leave. Additionally, employers may not retaliate against an employee who uses paid leave. Employees must give employers notice of their intention to take paid leave as soon as practicable.

Calculation of Pay

Employers must pay an employee paid leave at the same rate and time that the employee normally receives for hours worked. If an employee is paid hourly, the rate of paid leave is calculated by the employee's hourly rate. If an employee is paid by salary, commission, piece rate, or any other method besides hourly, the rate for paid leave must be determined by dividing the wages received for the previous 90 days by the number of hours worked. The calculation of total wages includes nondiscretionary bonuses earned by the employee, but an employer need not include bonuses earned at the sole discretion of the employer, overtime pay, hazardous duty pay, holiday pay, or tips.

Employer Obligations

Employers must post in a conspicuous location a bulletin (once it is prepared and made available by the Nevada Labor Commissioner) explaining employees' and employers' rights and obligations under the Law.

Additionally, all covered employers must maintain a record of the accrual and use of paid leave for each employee for a one-year period following the entry of such information in the record. Employers also must provide employees an accounting of their paid leave accrual and use each payday; the accounting may be included in a paystub or through another method.

Employers must reinstate any accrued but unused paid leave to an employee who is involuntarily separated from employment then rehired within 90 days of separation.

The Labor Commissioner is charged with enforcement of the Law and may impose an administrative penalty of \$5,000 for each violation, in addition to any other remedy or penalty. Failure to abide by the Law's requirements, including failure to provide leave or notice or to maintain mandated records, will be considered a violation. A violation of the Law may constitute a misdemeanor.

What Nevada Employers Should Do Now

- All employers with 50 or more employees in the state must either develop and implement a compliant policy or revise, if necessary, any existing policy so that it meets or exceeds the Law's requirements.
- For purposes of determining whether the Law will apply, identify any employees who are temporary, seasonal, or on-call, and therefore exempt from the Law.
- Adopt procedures to maintain records of the accrual and use of paid leave for each employee for a one-year period following the entry of such information in the record.
- Provide each employee the required information concerning his or her paid leave use and entitlement at every pay period.
- Post the bulletin prepared by the Labor Commissioner, once it is available, in a conspicuous location in the workplace.

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