

NEW YORK STATE PAID LEAVE LAW FOR QUARANTINE OR ISOLATION IN RESPONSE TO CORONAVIRUS

March 17, 2020

In the wake of the coronavirus outbreak, New York has passed a law which provides paid sick leave and job protection to employees who are quarantined or for which isolation is recommended. The law takes effect immediately.

Leave Entitlement: Public employers¹ (regardless of size) are required to provide **at least 14 days of paid sick leave** to employees who are subject to a mandatory or precautionary order of quarantine or isolation issued by the State of New York, state or local department/board of health, or any governmental entity authorized to issue such orders due to COVID-19 (“quarantine or isolation.”)²

Work-From-Home Employees: An employee who is asymptomatic or has not been diagnosed with a medical condition, and can work remotely during a quarantine or isolation, is not entitled to such leave.

Compensation and Accrued Leave: The employee must be compensated at their regular rate of pay for those regular work hours during which the employee is absent due to quarantine or isolation. The employee cannot be charged accrued sick leave.

Interaction with CBA: The law does not diminish any rights to greater benefits under a CBA or employer policy.

Return to Work Requirements: Employees must be returned to their position with the same pay and benefits when they return to work. Retaliation or penalization of an employee for taking this leave is prohibited.

Interaction with Other State Leave Benefits: Once all paid sick leave is exhausted, employees who cannot perform their duties because of quarantine or isolation or who are needed to care for a family member for these reasons are entitled to short-term disability and/or paid family leave under state law *where the employer has opted to provide those benefits*.

Unemployment Insurance: The waiting periods normally applicable to collect unemployment benefits is waived for individuals applying for these benefits because of a closure of an employer for COVID-19-related reasons due to a mandatory order of a government entity authorized to issue such order.

Interaction with Federal Legislation: Federal legislation is pending on similar issues. If the federal government passes coronavirus-related paid sick leave benefits equal or greater than those in this bill, those provisions will apply. However, if any event where the provisions of the state law would provide leave and/or benefits in excess of the benefits provided under federal law, employees are entitled to the “difference” of the state law benefits.

Other Requirements for Paid Sick Leave: The law also requires employers to generally provide sick leave benefits to employees. However, these provisions were added to an article of the Labor Law which excludes public employers from the definition of an employer. Therefore, it does not appear these provisions are applicable in the public sector at this time.

¹ This applies to state and local governments, school districts, boards of cooperative education services, vocational education and extension boards, any governmental entity operating a college or university, public improvement or special district (including police or fire districts), a public authority/commission/public benefit corporation, or any other public corporation, agency, instrumentality or unit of government which exercises governmental power under the laws of the state.

² An exception applies to an employee who is subject to quarantine because they are returning from a country which the CDC deemed a level two or three warning level, they were provided with notice of that threat beforehand, and they went on their own (not at the direction of the employer or as part of their job duties.) These employees can use accrued leave time, and the remainder is unpaid. The countries for which such warning levels have been issued can be found here. <https://wwwnc.cdc.gov/travel/notices/warning/coronavirus-europe>