

# The Bennett Law Firm

## *Client Update*

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### **Vermont Joins a Growing List of States to Mandate Paid Sick Leave**

Vermont is the fifth state, after Connecticut, California, Massachusetts and Oregon, to mandate that employers provide their employees paid sick leave benefits. While some state paid sick leave laws, such as those in Connecticut and Massachusetts, do not apply to all employers, there is a growing trend to mandate all employers to provide some amount of job protected employee sick leave.

#### **Vermont Law Applies to All Employers and Takes Effect January 1, 2017**

The new law takes effect on January 1, 2017 (except for employers with fewer than six employees, who will have until January 1, 2018 to comply) and will be rolled out in two phases. During the first two years of the law, all Vermont employers will be required to provide employees who work on average at least 18 hours a week the opportunity to accrue up to twenty-four (24) hours of paid sick time in a 12-month period.

As of January 1, 2019, employers will be required to provide those employees who work on average at least 18 hours a week, the opportunity to accrue up to forty (40) hours of paid sick time.

Eligible employees will earn sick time at not less than one hour for every 52 hours worked. A “new employer” is not required to provide employees with earned sick time until one year after the employer hires its first employee. In addition, all employers may require that new employees complete up to one year of employment before those employees may use any accrued paid sick leave. During this up to one year waiting period new employees must still accrue the earned time provided in the new law but will not be permitted to use until they have completed the waiting period.

#### **Permitted Uses**

An employee may use earned sick time:

- For his or her own illness, injury, or preventive medical care;
- To care for a sick or injured parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child;
- To arrange for social or legal services or obtain medical care or counseling for the employee or for the employee's parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child, who is a victim of domestic violence, sexual assault, or stalking, or who is relocating as the result of domestic violence, sexual assault, or stalking; and
- To care for a parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child, because the school or business where that individual is normally located during the employee's workday is closed for public health or safety reasons.

### **Rollover of Unused Time**

The law provides that an employer must either pay out unused amounts at the end of the year or permit an employee the ability to rollover to the next year any unused earned amount. However, the employer can cap how much paid sick leave an employee can use in any year to 24 hours (for the first two years) and then 40 hours thereafter. An employer can avoid the rollover requirement by providing employees with the full amount of paid sick leave at the beginning of the year rather than providing it as it is accrued. Upon separation, the employee is not entitled to the payout of any unused amount.

### **Impact on Current Paid Leave Policies**

An employer is in compliance with this new law if the employer has in place a paid leave policy that provides the employee with paid leave for the types of absences covered by the law and allows employees to accrue paid time at a rate that is equal to or greater than the rate set out in the law.

The Commissioner of Labor will issue a form notice that must be conspicuously posted by employers for employees. All new employees must be notified of the earned sick time requirement at the time of hire.

Other New England states that have paid sick leave laws are Connecticut and Massachusetts.

### **Connecticut Law**

The Connecticut law became effective January 1, 2012. Employees who work for an employer with 50 or more employees based on the number of employees on its payroll for the week

containing October 1, may earn and use up to 40 hours of paid sick leave annually.

### **Massachusetts Law**

The Massachusetts paid sick leave law became effective July 1, 2015. Employees who work for employers having 11 or more employees may earn and use up to 40 hours of paid sick time per calendar year, while employees working for smaller employers may earn and use up to 40 hours of unpaid sick time per calendar year.

Vermont employers should review their existing policies carefully and prepare for compliance with the earned sick time requirements. All employers should periodically review their paid leave policies to ensure compliance with the applicable law in which your employees work. If you have questions about this new law or need assistance drafting a policy in compliance with this law, please contact Peter Bennett ([pbennett@thebennettlawfirm.com](mailto:pbennett@thebennettlawfirm.com)) or Rick Finberg ([rfinberg@thebennettlawfirm.com](mailto:rfinberg@thebennettlawfirm.com)).