

# Management Alert



## If Pain, Yes Gain—Part VII: 2014 Recap and 2015 Outlook for Paid Sick Leave

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At the start of 2014, mandatory paid sick leave laws existed in only five locations—San Francisco, CA, Washington, D.C., Connecticut, Seattle, WA, and Long Beach, CA<sup>1</sup>—around the country. For businesses with operations outside these locations, paid sick leave was an area left to employer discretion. Yet as the year comes to close, mandatory paid sick leave laws have spread to 16 additional cities and states, turning what was once viewed as a “common cold” into a growing epidemic.

### Cities and States “Infected” with Paid Sick Leave Laws in 2014

Since January 1, 2014, seven paid sick leave laws have gone into effect, an additional five such laws were enacted, four more such laws were approved as ballot initiatives, and two of the existing laws underwent amendments. In sum, 2014 saw developments in 18 of the 21 current paid sick leave laws.

The most notable developments were the passage of statewide mandatory paid sick leave laws in California and Massachusetts (please see our earlier posts on the [California](#) and [Massachusetts](#) paid sick leave laws). The California “Healthy Workplaces, Healthy Families Act of 2014” was enacted in September 2014 and the Massachusetts law was approved as a ballot initiative by voters during the November 4, 2014 elections. California and Massachusetts joined Connecticut as the only states in the country with mandatory paid sick leave laws at the statewide level.

Another important advancement was that the number of paid sick leave laws in effect more than doubled over the last year. As stated above, there were five such laws in effect before 2014 and, since January 1st, this number has grown to 12. Specifically, paid sick leave laws have gone into effect in Portland, OR, SeaTac, WA<sup>2</sup>, Jersey City, NJ, New York City, Newark, NJ, Irvington, NJ<sup>3</sup>, and Los Angeles, CA<sup>4</sup> (please see our earlier posts on the [Jersey City](#), [New York City](#), and [Newark](#) paid sick leave laws).

The growth of paid sick leave laws in 2014 was so great that it even spread to two of the pre-2014 laws that were in effect. On June 6, 2014, Connecticut Governor Dannel P. Malloy signed into law Connecticut Public Act No. 14-128 (“Act”), a bill that provides several significant amendments to Connecticut’s paid sick leave law (please see our earlier post on the [Connecticut paid sick leave amendments](#)). One key amendment is to the process for determining if an employer is exempt from providing paid sick leave to its employees.

Furthermore, in October 2014 significant amendments to Washington, D.C.’s Accrued Sick and Safe Leave Act of 2008 went into effect. Some of the changes include determining who is a covered employee and when employees can begin accruing and using paid sick leave, providing leave upon reemployment, increased recordkeeping requirements, enhanced anti-discrimination and anti-retaliation protections, and heightened penalties against employers for violations (please see our

earlier post on the [Washington, D.C. paid sick leave amendments](#)).

The November 4th elections also marked an important day for mandatory paid sick leave laws. In addition to Massachusetts, voters in Oakland, CA, and Trenton and Montclair, NJ had the opportunity to approve paid sick leave ballot initiatives. All four initiatives obtained the necessary number of votes for approval and are scheduled to go into effect in 2015.

The approved ballot initiatives are not the only paid sick leave developments setting the stage for 2015. Since July 2014, five paid sick leave ordinances have been enacted around the country. In particular, Eugene, OR, the aforementioned state of California, and Passaic, East Orange, and Paterson, NJ have each enacted paid sick leave laws that are slated to go into effect in the new year.<sup>5</sup>

## 2015: No Cure In Sight

The first half of 2015 will be ripe with paid sick leave activity. In California, certain aspects of the statewide bill, such as compliance with the posting requirement and using the newly released Wage Theft Notice, become effective on January 1, 2015. However, other aspects, such as when employees can start using and accruing paid sick leave, do not start until July 1, 2015. Moreover, the Oakland paid sick leave law becomes effective on March 2, 2015.

The Connecticut amendment also goes into effect on January 1st, while the Massachusetts and Eugene, OR laws become effective on July 1st. The remaining two ballot initiatives—Trenton and Montclair, NJ—have effective dates scheduled for some time in March or early April 2015.

Besides Trenton and Montclair, three other New Jersey cities will also see their paid sick leave ordinances become effective in late 2014 or early 2015. In particular, the Passaic, Paterson, and East Orange laws go into effect on December 31, 2014, January 7, 2015 and January 18, 2015 respectively.<sup>6</sup> Consequently, it is important for employers with operations in these cities to ensure that their policies meet the laws' requirements as soon as possible.

In addition to laws that are scheduled to become effective, there are various other states and cities that could enact paid sick leave laws in 2015. To date, there are pending statewide paid sick leave laws in at least 17 states.<sup>7</sup> While the New Jersey statewide bill has been advancing through the state legislature during the last quarter of 2014, the bill is still a few steps away from reaching Gov. Chris Christie's desk and he has indicated concerns regarding the legislation. However, because New Jersey currently has eight municipalities with paid sick leave laws—the most of any state—there is certainly potential for it to become the next state to adopt a statewide paid sick leave law.

At the municipality level, several major cities, including Philadelphia, PA, Chicago, IL, and Tacoma, WA, currently have pending paid sick leave laws. The Philadelphia ordinance is especially interesting because Mayor Michael Nutter has vetoed similar legislation twice since 2011. However, a changed economic climate, task force recommendations, and wave of related legislation in other cities and states may be enough to sway Mayor Nutter's opinion this time around.

## What This Means For Employers

Employers with operations in any of the cities or states that have paid sick leave laws in effect or that are scheduled to go into effect must review their leave policies and confirm that they satisfy each of the laws' requirements. Employers must also be aware that compliance entails more than just satisfying the laws' accrual and usage requirements. It also covers a host of other obligations, including recordkeeping, notice and posting, confidentiality, and requesting medical documentation from employees. Lastly, employers must remain aware of future paid sick leave developments, which based on the past year, could be plentiful in 2015.

<sup>1</sup> According to the Long Beach, CA ordinance, it only applies to "hotel employer[s]."

<sup>2</sup> According to the SeaTac, WA paid sick leave ordinance, it only applies to "Hospitality or Transportation Employers."

<sup>3</sup> The city of Irvington has provided verbal and written proof that the ordinance's effective date was September 30, 2014.

However, because the ordinance also contains a provision stating that it goes into effect 120 days after enactment, the city of Irvington has also stated that another possible effective date is January 28, 2015. Given the uncertainty with this ordinance, the prudent course of action for employers is to assume the earlier of the two possible effective dates.

<sup>4</sup> According to the Los Angeles, CA ordinance, it only applies to “hotel employer[s].” However, the definition of “hotel employer” is so broad, that it may include restaurants, shops and other third party businesses that lease space in a covered hotel. “Hotel Employer” includes “any contracted, leased or sublet premises connected to or operated in conjunction with the hotel’s purpose” and a “Person,” defined to include an individual, corporation, partnership, etc., who “provides services at the hotel.”

<sup>5</sup> A paid sick leave law was also enacted in San Diego, CA in August 2014. However, in October 2014 the San Diego city council voted to place the measure on the June 2016 ballot and let voters decide the measure’s fate.

<sup>6</sup> While the East Orange ordinance states that it becomes effective 120 days after enactment, which in this case would be January 6, 2015, the city has informed us that the actual effective date is January 18, 2015.

<sup>7</sup> The 17 states are 1) Alaska, 2) Arizona, 3) Hawaii, 4) Illinois, 5) Iowa, 6) Maryland, 7) Michigan, 8) Minnesota, 9) Nebraska, 10) New Jersey, 11) New York, 12) North Carolina, 13) Oregon, 14) South Carolina, 15) Vermont, 16) Washington, and 17) Wisconsin.

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