

One Minute Memo®



CA Paid Sick Leave Update: Templates and Leave Accrual Date

By Kristina M. Launey and Ann Marie Zaletel

Just over a month before the January 1, 2015 effective date of [AB 1522](#), the Labor Commissioner has issued two advisories of immediate interest to California employers. One is a [template poster](#) for employer compliance and the other is a revised [Wage Theft Notice](#).

Employers may choose to use the template poster, or create their own, but must display a poster containing the information specified in new Labor Code section 247 in a conspicuous place in each workplace. Some employers may be interested in preparing their own posters: those employers that have their own policies which are more generous than the new law requires; and those employers that provide employees with a “lump sum grant” of leave rather than following the accrual method. An employer preparing its own poster will want to contain the Section 247 requirements but also accurately describe the employer’s own practice.

Although the Labor Commissioner has not yet issued an official interpretation or FAQs on the new law—and it is uncertain whether it will—the template poster does clarify the law’s accrual requirement. New Labor Code section 246(b)(1) will provide: “An employee shall accrue paid sick days at the rate of not less than one hour per every 30 hours worked, beginning at the commencement of employment or the operative date of this article, whichever is later.” As we [previously noted](#), this language does not provide much clarity as to when employees begin to accrue sick leave. Thus, the conservative advice was to start accrual January 1, 2015—the “operative date of [the] article.” Now, however, the Labor Commissioner’s position, as stated in the template poster, appears to be that accrual starts on July 1, 2015, or the employee’s first date of employment, **whichever is later** (“Accrual shall begin on the first day of employment or July 1, 2015, whichever is later.”) In other words, the Labor Commissioner’s position is that the earliest accrual begins is July 1, not January 1.

The new template for the Labor Code Section 2810.5 [Wage Theft Notice](#) includes the additional information that AB 1522 now requires. The Labor Commissioner’s additions to the Wage Theft Notice exceed what the AB 1522 amendments expressly require, but subsection (a)(1)(I) of section 2810.5 empowers the Labor Commission to have the notice contain “any other information the Labor Commissioner deems material and necessary.” We thus assume the Labor Commissioner deems everything included in its template Wage Theft Notice to be material and necessary. Employers who do not use the template notice should ensure their notices include all information appearing in the template notice, though the employer would not be precluded from using a bit more plain language in addition to the statutory references.

Do not forget that while January 1, 2015, is the date to comply with the posting requirement and use the new Wage Theft Notice, an employee’s entitlement to use paid sick leave does not begin until at least July 1, 2015, and now, according to the Labor Commissioner, that is the date that sick-pay accrual begins as well.

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Seyfarth Shaw LLP One Minute Memo® | December 1, 2014

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