

Client Alert

October 2020

Updated New York City and State Sick Leave Laws Now in Effect

The New York State budget, passed in April 2020, included a statewide sick leave law (“NYSSL”), as described in an earlier [client alert](#). The NYSSL requires employers to provide varying degrees of sick leave to employees based on company size (up to 56 hours per year). NYSSL can be used by employees for their own illnesses and/or the illnesses of family members, and for leave related to domestic violence, sexual offenses and related crimes.

The NYSSL became effective on September 30, 2020. While employees cannot use any leave under the NYSSL until January 1, 2021, effective October 1, 2020, employers must begin tracking accrual (generally, NYSSL accrues at a rate of 1 hour for every 30 hours worked), provide employees with information about accrual upon request, and be prepared to carry over accrued time (as unused sick leave is carried over to the next year).

With employee leave rights under the NYSSL set to equal or surpass rights under New York City’s [Earned Safe and Sick Time Act](#) (“ESSTA”), New York City amended the ESSTA, in some cases to align with state law. Effective January 1, 2021, employers with 100 or more employees must provide up to 56 hours of paid safe/sick leave, and employers with 4 or fewer employees and a net income of at least \$1 million must provide paid safe/sick leave to their employees. Both are consistent with the requirements under the NYSSL. Employers with 100 or more employees now must permit their employees to carry over up to 56 hours under the ESSTA, but can cap the amount that employees can use in any year at the same 56 hours. Other employers must permit carry over of up to 40 hours and can cap the usage at 40 hours in any year. While the ESSTA previously permitted employers to impose a 120-day waiting period before employees could use leave, employers must now allow employees to use safe/sick leave as it accrues.

In addition, the amendments to the ESSTA add compliance burdens for employers. By November 30, 2020, employers must provide employees

attorneys

Michael J. Passarella
mpassarella@olshanlaw.com
212.451.2322

Marc N. Aspis
maspis@olshanlaw.com
212.451.2378

practices

Employment Practices

the amount of leave accrued and used during each pay period and their total balance of accrued leave. These amounts may be provided on employee pay statements. Employers may continue to require medical documentation if leave under the ESSTA extends for three or more days, but employers must now reimburse employees for the cost associated with obtaining such documentation. Finally, employers must give employees notice of their rights under the ESSTA by October 30, 2020 in addition to posting a notice.

Given these new laws, employers need to review their existing policies, amend/modify existing policies if needed and determine if existing vacation and other leave policies should be amended in light of the enhanced leave requirements.

Please contact the Olshan attorney with whom you regularly work or one of the attorneys below if you would like to discuss further or have questions.

attorneys

Michael J. Passarella
mpassarella@olshanlaw.com
212.451.2322

Marc N. Aspis
maspis@olshanlaw.com
212.451.2378

practices

Employment Practices

This publication is issued by Olshan Frome Wolosky LLP for informational purposes only and does not constitute legal advice or establish an attorney-client relationship. In some jurisdictions, this publication may be considered attorney advertising.

Copyright © 2020 Olshan Frome Wolosky LLP. All Rights Reserved.