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EMPLOYMENT LAW UPDATE

SENATE PASSES PAID LEAVE CORONAVIRUS RELIEF

Today the Senate passed the Families First Coronavirus Response Act. Among other things, the law includes an emergency expansion of the Family and Medical Leave Act and a requirement for paid sick leave related to COVID-19.

Both of these new and temporary laws only apply to employers with fewer than 500 employees. In addition, the Secretary of Labor shall have the authority to issue regulations exempting small businesses with fewer than 50 employees from the paid leave requirements if such requirements would jeopardize the viability of the business as a going concern.

Although the paid leave will be paid by employers initially, payroll tax credits will be available.

The Act will take effect not later than 15 days after the date of its enactment.

Emergency Family and Medical Leave Expansion Act

From the effective date of the Families First Coronavirus Response Act through December 31, 2020:

- Eligible employees are entitled to take 12 workweeks of leave if they are unable to work due to a need for leave to care for the son or daughter under 18 years of age of such employee if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19.
- To be eligible for this leave, an employee need only have been employed for at least 30 calendar days.
- The first 10 days of leave may be unpaid, unless the employee elects to substitute available accrued vacation, sick or personal leave.
- After the initial 10 days, an employer must provide paid leave at a rate of 2/3 of the employee's regular rate of pay for the number of hours the employee would otherwise be normally scheduled to work, but only up to \$200 per day and \$10,000 in total.

Emergency Paid Sick Leave Act

Under the Emergency Paid Sick Leave provisions of the law, full time employees will be entitled to 80 hours of paid sick leave for certain qualifying reasons outlined below. Part-time employees will be eligible for paid leave for a number of hours equal to the number of hours that such employee works, on average, over a 2-week period.

The Paid Sick Leave is available where an employee is unable to work because:

1. The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.

3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
4. The employee is caring for an individual who is subject to an order as described in subparagraph (1) or has been advised as described in paragraph (2).
5. The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions.
6. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

Paid sick leave is calculated based on the employee's regular compensation, except that it is capped at \$511 per day and \$5,110 in the aggregate for a use described in sections (1), (2), or (3) above; and \$200 per day and \$2,000 in the aggregate for a use described in sections (4), (5), or (6) of section 5102(a). An employer may not require an employee to use other available paid leave prior to using this sick time.

Employers will be required to post a notice concerning this law in a conspicuous location. A model notice shall be prepared by the Secretary of Labor.

For more information about this topic or other employment-related issues, contact Sara Kula at sdk@ddw-law.com or 914-607-3223.

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