

New York Enacts Temporary COVID-19 Worker Leave Bill; Final Version Deletes Proposed Permanent Paid Sick Leave Program

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On March 18, 2020, New York Gov. Andrew Cuomo signed into law statewide legislation that imposes immediate obligations on most employers in the state to provide a minimum amount of paid or unpaid leave — or some combination thereof — to workers who have been impacted by the COVID-19 public health emergency.

Although the measure as originally drafted would also have put into place a permanent sick leave program requiring employers with as few as four employees to provide some form of job-protected sick leave, that portion of the bill is not included in the law signed by the governor on March 18.

What You Should Know

- **Effective immediately**, all New York employers are required to make available to any employee who is subject to an official order of mandatory or precautionary quarantine or isolation due to COVID-19 some period of unpaid or paid sick leave, or both, depending on the size of the employer:
 - **Employers with 10 or fewer employees** (as of 1/1/2020) must provide job-protected, unlimited unpaid leave to affected employees for the duration of the official quarantine or isolation order.
 - **Employers with 10 or fewer employees (as of 1/1/2020) and a net income in excess of \$1 million in the previous tax year, and employers with between 11 and 99 employees**, must provide at least five days of job-protected paid leave, and job-protected, unlimited unpaid leave for the duration of the official quarantine or isolation order, to affected employees.
 - **Employers with 100 or more employees and public entities** — including the state, localities, public school districts, and public colleges and universities, for instance — will be required to provide a minimum of 14 days of paid leave to affected employees for the duration of the official quarantine or isolation order.
- Employees eligible only for unpaid leave, or who have exhausted their sick leave entitlement as provided in the measure, may be eligible for paid family leave or disability benefits under the state’s Paid Family Leave and Temporary Disability Insurance (TDI) program (the new law eliminates the waiting period for such benefits):
 - “Family leave” would be defined as any leave from work, or leave due to school closures, as a result of an official mandatory or precautionary order of isolation or quarantine as well as disability benefits under the state’s workers’ compensation law.
 - “Disability” would be defined broadly as any “inability” of an employee to perform his or her regular job, or any other job offered by the employer, as a result of a COVID-19-related, government-issued mandatory or precautionary order of isolation or quarantine.
- The paid leave entitlement would not extend to:
 - Healthy employees who are physically able and have the ability to work from home during the mandated or precautionary period of quarantine or isolation; or
 - Employees who are ordered quarantined or isolated because they traveled to a high-risk country for non-business related reasons, despite having been provided with a “level two or three travel health notice” and notice, prior to travel, that paid leave would not be available to them under such circumstances.

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