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Nevada Employers Prepare for New Paid Leave Law (SB 312)

Nevada's SB 312, signed into law in June of this year, is set to take effect **January 1, 2020**. For the first time in the State's history, this bill will legislatively mandate private employers to provide employees with up to 40 hours of paid leave per benefit year. This mandate will be enforced by the Nevada Labor Commission and will subject employers to fines of up to \$5,000 per violation for non-compliance.

To whom does SB 312 apply? The law will apply to all private-sector employers who employ at least 50 workers. Exemptions from the bill are available for employers in the first two years of operation. Exemptions are also available where a contract, policy, or collective bargaining agreement provides employees with at least the same amount of paid leave as the law requires. Temporary, seasonal, and on-call workers are not entitled to the benefits of SB 312.

How does paid leave accrue under SB 312? Eligible employees must be provided with 0.01923 hours of paid leave for each hour worked. Employers may allow workers to accrue paid leave in one of two ways: 1) employees may accrue paid leave over time; or, 2) employees may be allowed to use the total number of expected hours to be accrued at any time during the benefit year. Employers who elect to allow accrual over time must permit employees to carry over up to 40 hours of unused paid leave into the following benefit year. Carryover is not required for employers who front-load paid leave.

How and how much do I pay employees on paid leave? Workers must receive the same rate of pay as they would have for hours worked. Hourly workers must be paid at 100% of their hourly rate of pay. If an employee is paid by salary, commission, piece rate, or any other method other than strictly hourly, then the rate of pay is equal to the employee's total wages over the previous 90 days, divided by the number of hours worked over those 90 days. For purposes of this calculation, discretionary bonuses, holiday pay, overtime, hazardous duty pay, and tips are not included.

Employees must be compensated for any paid leave taken within the same time frame as they would be paid for hours worked (i.e., on the employee's usual payday.)

Questions? Contact Stokes Wagner.

Are there any limits on use? Yes. Employers may limit the use of paid leave to 40 total hours per benefit year and may prevent an employee from using any accrued paid leave until the employee reaches their 90th day of employment. Employers may also set minimum increments of paid leave which an employee may elect to use, so long as that limit does not exceed 4 hours.

Outside these specific conditions, though, employers may not: a) deny any employee the use of available paid leave; b) require an employee using paid leave to find a replacement worker; or, c) retaliate against or discipline an employee for using available paid leave.

Do I have to give employees notice? Yes. Employees must receive an accounting of their available paid leave every payday. This information can either be provided on the employee's wage statement or in a separate document provided contemporaneously with a wage statement.

Employers must also post a bulletin informing its employees of these new requirements. The Labor Commissioner's office provides these notices both in [English](#) and [Spanish](#).

What should I do to get ready? Employers should make themselves fully aware of the requirements of SB 312, the full text of which can be found [here](#). Employers unsure about how to implement such a policy, or wary about whether their current policy meets all the requirements of SB 312, should contact an attorney immediately.