

# HR COMPLIANCE BULLETIN

## States Update Employee Leave Requirements for Coronavirus

In response to the coronavirus (COVID-19) pandemic, states have passed new laws and issued new regulations and guidance about employee leave taken for COVID-19 reasons. These provisions are in addition to the federal Emergency Paid Sick Leave Act and Emergency Family and Medical Leave Expansion Act, passed on March 18 as part of the [Families First Coronavirus Response Act \(FFCRA\)](#).

In general, employee leave permitted under new state COVID-19 rules and guidance varies with respect to factors like which employers and employees are covered by the leave, the length and purpose of the leave, whether the leave is compensated and at what rate, and whether the leave is provided under a new law or rule, or covered under an existing provision.

This Compliance Bulletin describes new state employee leave provisions and guidance enacted or issued in response to the COVID-19 pandemic, along with links to government resources providing further information. Information about similar measures in select major cities is also included. The document will be updated with additional new employee leave rules in this rapidly changing compliance area.

### Action Steps

Employers should monitor the websites of their state departments of labor for new laws, rules and guidance about COVID-19-related employee leave.

### Highlights

States are increasingly enacting laws and issuing new rules and guidance on employee leave taken as a result of COVID-19.

State actions on employee leave come in addition to the paid employee leave provisions of the Families First Coronavirus Act passed by Congress.

Key features of new laws and regulations include the length of leave, compensation for leave, and eligibility requirements for leave.

### Recommendations

Employers should stay alert to the following actions on the state level:

- New employee leave laws and regulations
- Changes to existing laws and rules on employee leave
- Guidance on the application of existing rules and laws to COVID-19 circumstances





## California

As of March 29, 2021, California employers with more than **25 employees** must provide up to 80 new hours of [supplemental paid sick leave](#) for specific COVID-19-related reasons. The leave requirement is **retroactive to Jan. 1, 2021**, meaning that employees are entitled, upon request, to be paid for qualifying leave they took between that date and March 28, 2021. The new leave mandate expires Sept. 31, 2021.

The law was passed following the expiration of state and federal COVID-19 leave mandates in December 2020. The California Department of Industrial Relations (DIR) has published [FAQs](#) and a mandatory workplace [notice](#) on the new law. Recordkeeping provisions apply.

To qualify for leave under the California 2021 COVID-19 supplemental paid sick leave law, an employee must be unable to work or telework due to:

- Quarantine, isolation, or a healthcare provider's advice to quarantine due to COVID-19, or symptoms of COVID-19 while seeking a diagnosis;
- Caring for a family member who is subject to a COVID-19 quarantine or isolation period or has been advised by a healthcare provider to quarantine due to COVID-19, or caring for a child whose school or place of care is closed or unavailable due to COVID-19 **on the premises**; or
- A vaccine appointment or vaccine-related symptoms.

Employers may receive credit against the new leave requirement if they provided supplemental COVID-19 leave between Jan. 1, 2021, and March 28, 2021, or provide such leave going forward, as long as the alternative leave meets the requirements for leave under the new law. For instance, the credited leave may not consist of any other vacation, paid leave or paid time off that is not specific to COVID-19.

In addition, employers may count leave provided under a **local ordinance** toward the leave required by the state supplemental paid leave law. Furthermore, employers may require employees to exhaust their COVID-19 supplemental paid sick leave before receiving **exclusion pay** under the Cal-OSHA COVID-19 emergency temporary standards or the Cal-OSHA Aerosol Transmissible Diseases standard (explained below). Employers who did not compensate qualifying leave at the rate required by the new law may make **retroactive payments** to employees so the leave will be credited against their new obligation. If an employee requests such a payment, it must be provided by the next payday.

Full-time employees are entitled to 80 hours of supplemental paid sick leave, and part-time employees are entitled to leave equal to two weeks of working hours. Special rules apply for part-time employees with variable schedules and to firefighters.

[Guidance](#) from the DIR about another COVID-19-related leave requirement states that employers who **require COVID-19 testing or vaccination** must pay for the time those procedures take because that time constitutes "hours worked." In this situation, employers may not require workers to use paid leave.

On Nov. 30, 2020, California adopted [emergency temporary Cal/OSHA standards](#) on COVID-19 infection prevention that apply to most workers in California **not** covered by Cal/OSHA's [Aerosol Transmissible Diseases standard](#). Among other things, the new standards require employers to exclude employees from the workplace for specified periods if they test positive for or have been exposed to COVID-19, or if they are under an isolation order from a health official.

# HR COMPLIANCE BULLETIN

If an employee is accordingly excluded from work and is otherwise “able and available to work,” the employer is required to **continue to maintain the employee's “earnings, seniority, and all other employee rights and benefits,”** including the employee's right to their former job status, as if the employee had not been removed from their job. Employers may use employer-provided employee sick leave benefits for this purpose and consider benefit payments from public sources in determining how to maintain earnings, rights and benefits, where permitted by law and when not covered by workers' compensation.

[FAQs](#) issued by the DIR state that employees **unable to work** because of COVID-19 symptoms are **not eligible** for exclusion pay and benefits. These employees, however, may be eligible for workers' compensation or state disability insurance benefits. The FAQs also state that employees would typically receive pay for a quarantine period of up to **14 days**. If an employee is out of work for more than a standard quarantine period based on a single exposure or positive test, but still does not meet the regulation's requirements to return to work, that extended quarantine period **may** be an indication that the employee is not able and available to work due to illness. The employee, however, may be eligible for temporary disability or other benefits.

The exclusion pay requirement **does not apply** when the employee is unable to work for reasons other than protecting persons at the workplace from possible COVID-19 transmission. It also **does not apply** where the employer demonstrates that the COVID-19 exposure is **not work related**.

Employers are required to **provide notice** of the employee rights described above to employees who have been excluded from the workplace under the new standard, at the time of exclusion.

The California Department of Industrial Relations has created [employer resources](#) about the standard.

## *Local Laws*

The following entries describe select California local leave laws enacted in response to the COVID-19 emergency. Additional localities not listed here (such as [San Mateo County](#), [Sonoma County](#) and [Santa Rosa](#)) have passed similar measures. Employers should familiarize themselves with the leave laws that apply in their county, city or town.

- Long Beach—Effective May 19, 2020, a Long Beach [ordinance](#) imposes a paid sick leave requirement on employers that have 500 or more employees nationally, and that are not required to provide FFCRA emergency paid sick leave. Under the ordinance, full-time employees are entitled to 80 hours of paid leave, and part-time employees are eligible for paid leave in an amount equal to their average number of work hours over a two-week period, for specified COVID-19-related reasons. As with the FFCRA, different rates of compensation apply, depending on the reason for leave. The ordinance also contains pay caps and employee and employer exceptions, such as for health care worker and emergency responder employees (as defined in the ordinance).  
Under the terms of the ordinance, every 90 days, the city manager reports on whether the ordinance is still necessary.
- Los Angeles—Mayor Eric Garcetti issued a [public order](#), effective April 10, 2020, and continuing through two weeks after the end of the COVID-19 local emergency, requiring up to 80 hours of supplemental paid sick leave for certain workers for specified COVID-19-related reasons. The order applies to private employers with 500 or more employees within the city of Los Angeles, or 2,000 or more employees within



the United States. The order includes employer and employee exemptions, and pay caps apply. The city has issued [rules](#) to implement the order.

On February 10, 2021, the mayor [updated](#) the order to cover workers not previously eligible. Supplemental paid sick leave now applies to workers have worked at least 60 days at large businesses and nonprofits with more than 500 employees in the city or more than 2,000 employees nationwide. The previous order had limited leave to workers employed by these organizations from February 3 through March 4, 2020.

- Unincorporated Los Angeles County—On Jan. 26, 2021, the county amended and extended an urgency ordinance providing employees up to 80 hours of supplemental paid sick leave for specific COVID-19-related reasons. The [new amended ordinance](#) is retroactive to January 1, 2021, and took effect immediately. It remains in effect until two calendar weeks after the expiration of the COVID-19 local emergency (the original ordinance expired Dec. 31, 2020). The amendments expand supplemental paid sick leave to cover employees at **all nongovernmental businesses** in the unincorporated areas of the county (the original applied only to employers with 500 or more employees nationally). Part-time employees receive paid sick leave equal to their average two weeks' pay. Pay is capped at \$511 per day and \$5,110 total.

Employers may exclude emergency responders or health care providers, as defined in the ordinance, from the leave.

Leave otherwise due to an employee under the amended ordinance is reduced by any supplemental paid sick leave the employee received under the original ordinance or the FFCRA. Employees who have exhausted their leave benefits under either measure are not eligible for any additional supplemental paid sick leave under the amended ordinance.

- Oakland—Under an [emergency ordinance](#) passed Jan. 19, 2021, the Oakland City Council amended and extended its original emergency paid sick leave ordinance, which was passed May 12, 2020, and expired Dec. 31, 2020. The new ordinance is retroactive to Dec. 31, 2020, and requires all employers within the city to provide their workers with emergency paid sick leave for specified COVID-19-related reasons, which include being at least 65 years old or at other risk of serious illness from COVID-19 exposure. The law took effect immediately upon passage. Full-time workers receive 80 hours of leave, while part-time workers are entitled to an amount of leave equal to their average work hours over a 14-day period.

Employers may take a credit toward the leave required in the ordinance for any emergency paid sick leave they provided an employee under the FFCRA or the state supplemental leave requirement (both expired). Pay caps and exemptions, including for small employers (fewer than 50 employees) and health care worker and emergency responder employees, apply.

The city issued [FAQs](#) on the expired ordinance and is expected to issue new FAQs on the extension and amendment.

- Sacramento—Under a city [ordinance](#) extended through March 31, 2021, employers must provide employees up to 80 hours of supplemental paid sick leave for specified COVID-19-related purposes. The ordinance applies only to employers that have 500 or more employees nationally and are exempt from



FFCRA paid sick leave requirements. Exceptions apply for employees who are emergency responders or health care providers, and employers can use certain employee leave provided for COVID-19 purposes as a credit toward the leave required under the ordinance. As with FFCRA paid sick leave, compensation varies according to the reason for the leave, and daily and aggregate pay caps apply.

- San Francisco—Effective April 17, 2020, the San Francisco Public Health Emergency Leave Ordinance requires employers with 500 or more employees worldwide to provide their San Francisco employees with up to 80 hours of emergency paid sick leave for certain coronavirus-related purposes. Click here for [FAQs](#) from the city on the law. In February 2021, the ordinance was [amended](#) to **exclude** nonprofit organizations that do not engage in health care operations and whose annual revenue is mostly program service revenue that is unrelated business taxable income. The amendments also struck a provision allowing leave to be taken without regard to employees' work schedules. The ordinance has been extended through April 20, 2021.

The city of San Francisco also passed the Workers and Families First Program, providing \$10 million to businesses with employees in San Francisco to provide five days of sick leave beyond employers' existing policies. The additional sick leave is available only to employees who have exhausted their currently available sick leave, have exhausted or are not eligible for federal or state supplemental sick leave, and whose employer agrees to extend sick leave beyond current benefits. The city has released an [employer guide](#) on the program.

In addition, the city has published [guidance](#) on the use of San Francisco Paid Sick Leave for coronavirus-related reasons.

- San Jose—On Jan. 5, 2021, following the Dec. 31, 2020, expiration of its original supplemental paid sick leave ordinance, San Jose passed a new [ordinance](#) that continues, from Jan. 1, 2021, through June 30, 2021, the paid sick leave benefits that had been provided under the city's ordinance **and** the FFCRA's Emergency Paid Sick Leave Act, and adds a private right of action to enforce the benefits.

## Colorado

Effective Jan. 1, 2021, Colorado employers must provide workers with up to 80 hours of paid public health emergency leave (PHEL) under the state's [Healthy Families and Workplaces Act](#). The requirement was clarified in [guidance](#) and [temporary emergency rules](#) issued by the state's Department of Labor and Employment (DLE) on Dec. 23, 2020.

The PHEL requirement mandates that, on the date a public health emergency is declared, employers provide full-time employees with enough supplemental paid leave to ensure they have a total of 80 hours of paid leave to use for specified purposes related to the emergency. Part-time employees are entitled to a lesser amount of the supplemental paid leave, and all employees may use the leave for four weeks following the end of the public health emergency. According to the DLE guidance, the PHEL requirement was triggered by Colorado executive orders declaring and extending a COVID-19 public health emergency.

Employees' unused general paid sick leave (accrued under a different portion of the Healthy Families and Workplaces Act) may be counted toward the PHEL requirement. Employers with fewer than 16 employees must provide 80 hours of PHEL, despite not being required to provide general paid sick leave under the Healthy Families and Workplaces Act until 2022.



Previously, from July 14, 2020, through Dec. 31, 2020, the Healthy Families and Workplaces Act expanded paid sick leave under the federal Families First Coronavirus Response Act (FFCRA) to cover Colorado employers and employees exempt from the federal law. This law had replaced the Colorado Health Emergency Leave with Pay (“HELP”) rules that had mandated paid sick leave for certain workers affected by COVID-19.

## Connecticut

The state has issued [FAQs](#) on the application of various employment laws and programs—including the state’s paid sick leave and family leave requirements—to workers and businesses affected by COVID-19.

## District of Columbia

[Emergency legislation](#) set to expire June 15, 2021, extends a previous amendment to the District’s Accrued Sick and Safe Act requiring employers with between 50 and 499 employees to provide up to 80 hours of **paid public health emergency leave**. The leave is available for the same reasons emergency paid sick leave is permitted under the FFCRA; employees must have worked for their employer for at least 15 days to be eligible.

Employees may only use the leave concurrently with or after exhausting any other paid leave for which they are eligible for covered reasons under federal law, District law or their employer’s policies. In addition, employers may reduce an employee’s public health emergency leave by the amount of such other paid leave the employee has taken. If leaves are taken concurrently, the employer may reduce the employee’s emergency health leave pay by the amount of compensation the employee receives under the other concurrent leave.

Employers that are health care providers are exempt from the requirement. Employers may require employees to provide reasonable notice of the need for leave in the event of an emergency, and 48 hours’ notice for other reasons. Employers who contribute to an employee’s health insurance may require certification of the employee’s need for three or more consecutive days of leave, but the employee has one week after returning to work to provide the certification.

The emergency legislation also extended an earlier expansion of the District’s **Family and Medical Leave Act** (DCFMLA) to allow workers who have been employed by their employer for at least 30 days to use up to 16 weeks of unpaid COVID-19 leave due to:

- A health care provider’s recommendation that the employee isolate or quarantine, including because the employee or an individual with whom the employee shares a household is at high risk for serious illness from COVID-19;
- A need to care for a family member or an individual with whom the employee shares a household who is under a government or health care provider’s order to quarantine or isolate; or
- A need to care for a child whose school or place of care is closed or whose child care provider is unavailable.

The right to COVID-19 leave under the DCFMLA ends when the public health emergency has ended, even if an employee has not exhausted the 16-week entitlement. The requirement applies to all employers, regardless of the number of employees they employ in the District. Employers may require certain certifications, and any paid leave used by an employee for COVID-19 family and medical leave purposes counts against the 16 workweeks of allowable leave. Employees may, but are not required to, use DCFMLA leave before other leave. Violations are subject to penalties of \$1,000 each.



A different [emergency law](#) in the District prohibits employers from retaliating against employees for, among other things, testing positive for COVID-19, quarantining because of COVID-19, or caring for someone who has COVID-19 symptoms or is quarantining because of COVID-19.

The District's Office of Human Rights maintains a [web page](#) with information about COVID-19-related employee leave.

## Illinois

In March 2021 the Illinois Department of Labor issued [guidance](#) about employee leave for COVID-19 vaccination. According to the guidance:

- If an employer **requires** employees to be vaccinated, time taken for vaccination is likely compensable under the Illinois Minimum Wage Law and the federal Fair Labor Standards Act. This is true even if time spent for vaccination is not work time. Employers should combine mandatory vaccination with paid leave or other compensation.
- Employers that do not require employees to be vaccinated should allow them to use sick leave, vacation time or other paid time off for that purpose. Employers that do not provide paid time off should consider offering flex time so employees may be vaccinated without having to take unpaid time, or offer the flexibility of taking unpaid time off for vaccination.
- An appointment to receive a COVID-19 vaccine would qualify as a permissible medical appointment under the Illinois Employee Sick Leave Act (ESLA) if the employer allows the use of sick leave benefits for vaccinations. The ESLA requires that sick leave be allowed for certain family medical purposes on the same terms it is allowed for the employee's own illness or injury.

## Local Laws

- Chicago—the city passed an [ordinance](#) banning retaliation against employees for staying home from work for certain COVID-19-related reasons, including caring for others with COVID-19. The law provides employees with a private right of action for violations, allowing damages of three times the wages the employee would have earned and attorneys' fees, in addition to other enforcement actions. The ordinance took effect on May 20, 2020. The city has issued [FAQs](#) on the ordinance.

Another city [ordinance](#), effective April 21, 2021, requires Chicago employers to give employees leave to receive the COVID-19 vaccine during work hours. Leave must be paid (up to four hours per dose) if vaccination is required by the employer. Otherwise, employees must be allowed to use any accrued paid leave for this purpose. Retaliation is prohibited, and violations are subject to penalty.

## Massachusetts

The Massachusetts attorney general has issued [guidance](#) indicating that state earned sick time may be used if public health officials or health care providers **require** an employee or a family member to quarantine.

## Michigan

On Oct. 22, 2020, Michigan passed a [law](#) ([amended](#) effective Dec. 29, 2020) prohibiting employers from discharging, disciplining, or otherwise retaliating against employees who follow a mandate in the law that they not report to work if they test positive for COVID-19 or display the principal symptoms of COVID-19. The law is retroactive to March 1, 2020, and took effect on passage.

# HR COMPLIANCE BULLETIN



Under the law, workers who have **tested positive for COVID-19** are barred from returning to work until they are advised by a health care provider or public health professional that they have completed their isolation period, or the following conditions are met:

- If the employee has a fever, 24 hours have passed since the fever has stopped without the use of fever-reducing medications;
- The isolation period recommended in CDC guidelines has passed;
- The employee's principal symptoms of COVID-19 have improved; **and**
- If the employee has been advised by a health care provider or public health professional to remain isolated, the employee is no longer subject to such advisement.

An employee who **displays the principal symptoms of COVID-19** but has **not yet tested positive** is prohibited from reporting to work until:

- A negative diagnostic test result has been received; **or**
- **All** of the following apply:
  - The isolation period has passed since the principal symptoms of COVID-19 started;
  - The employee's principal symptoms of COVID-19 have improved; **and**
  - If the employee had a fever, 24 hours have passed since the fever subsided without the use of fever-reducing medication.

The law's prohibition on reporting to work and protection from retaliation extend to employees who have had close contact with an individual who tests positive for COVID-19. These workers may not report to work until either:

- The quarantine period has passed since the employee last had close contact with the individual; **or**
- The employee is advised by a health care provider or public health professional that they have completed their period of quarantine.

A special exemption applies to employees in the following list who are subject to quarantine, but are not experiencing any symptoms and have not tested positive for COVID-19. These employees may be allowed to participate in on-site operations when strictly necessary to preserve the function of a facility, if cessation of operation of the facility would cause serious harm or danger to public health or safety:

- Health care professionals.
- Workers at a health care facility
- First responders (law enforcement officers, firefighters or paramedics)
- Child protective service employees
- Workers at a child caring institution (as defined by state law)
- Workers at an adult foster care facility (as defined by state law)
- Workers at a correctional facility
- Workers in the energy industry who perform essential energy services as described in the United States Cybersecurity and Infrastructure Security Agency's Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response, Version 2.0, March 28, 2020



# HR COMPLIANCE BULLETIN



- Workers identified by the director of the department of health and human services as necessary to ensure continuation of essential public health services and enforcement of health laws, or to avoid serious harm or danger to public health or public safety

“Principal symptoms of COVID-19” are as defined by the Michigan Department of Health and Human Services. Until the department issues a definition, principal symptoms are:

- One or more of the following not explained by a known medical or physical condition:
  - Fever
  - Shortness of breath
  - Uncontrolled cough
- Two or more of the following not explained by a known medical or physical condition:
  - Abdominal pain
  - Diarrhea
  - Loss of taste or smell
  - Muscle aches
  - Severe headache
  - Sore throat
  - Vomiting

## Nevada

The Nevada Labor Commissioner’s Office has issued [guidance](#) on employees’ use of leave for COVID-19 purposes under the state’s new paid leave law. According to the guidance, employees may elect to use available paid leave or other applicable leave while out on a mandatory government quarantine, but employers may not require that employees use the leave for this purpose.

## New Jersey

New Jersey passed [legislation](#) prohibiting employers from terminating or refusing to reinstate employees for taking time off (as instructed by a medical professional) due to COVID-19. Another new [law](#) expands the definition of “serious health condition” in the state’s temporary disability insurance (TDI) and family leave insurance (FLI) programs to allow benefits when a person is diagnosed with or suspected of exposure to a communicable disease, or to take care of a family member similarly affected.

The legislation also amended New Jersey’s earned sick leave law to permit the use of earned sick time for isolation or quarantine recommended or ordered by a provider or public health official as a result of suspected exposure to a communicable disease, or to care for a family member under similar isolation or quarantine.

An additional [law](#) enacted on April 14, 2020, expands the state’s Family Leave Act to allow employees to take up to 12 weeks of unpaid time off to care for a family member as a result of an epidemic of a communicable disease, or efforts to prevent spread of a communicable disease. The job-protected leave also applies to employees requiring leave to provide care or treatment for their child if the child’s school or place of care is closed in response to a public health emergency.

The state’s Department of Labor and Workforce Development has developed [printable guides](#) outlining COVID-19-related benefits for New Jersey employees. These guides explain the applicability of benefits like earned sick leave, unemployment insurance, temporary disability and family leave insurance, and workers’ compensation in various COVID-19-related situations.



## New York

New York state enacted a [law](#) providing leave for employees subject to a quarantine or isolation order due to COVID-19, effective March 18, 2020. Whether and how much employee compensation is required during the leave depends on the size and net income of the employer, as follows:

- **\$1 million or less, and up to 10 employees:** Unpaid leave through the end of the quarantine or isolation. (Employees are eligible for paid family leave and disability benefits.)
- **More than \$1 million, and up to 10 employees:** Leave through the end of the quarantine or isolation, at least five days of which must be paid. (After five days, employees are eligible for paid family leave and disability benefits.)
- **Between 11 and 99 employees:** Leave through the end of the quarantine or isolation, five days of which must be paid. (After five days, employees are eligible for paid family leave and disability benefits.)
- **100 or more employees:** 14 days of paid sick leave during quarantine or isolation.
- **Public employers:** 14 days of paid sick leave during quarantine or isolation.

The law also allows paid family leave for employees to care for children under a quarantine or isolation order. Employees eligible for federal COVID-19-related leave may take state leave only to the extent that it exceeds the federal leave. Exceptions to the leave requirement apply for asymptomatic or undiagnosed employees who can work virtually, and for employees who traveled to affected regions (including states on New York's travel advisory) for non-work purposes.

According to [guidance](#) on the law from the New York Department of Labor, employees may not report to work and must be given paid leave for repeat periods of isolation or quarantine if:

- They test positive for COVID-19 after returning to work following isolation or quarantine; or
- They continue to test positive for COVID-19 after isolation or quarantine ends.

However, the guidance states that except for nursing home workers, it is not recommended that employees be tested to discontinue quarantine or isolation. Leave is limited to three periods of isolation or quarantine, and the second two periods must be based on a positive COVID-19 test. (On April 22, 2021, the New York Department of Health issued updated [“Protocols for Personnel in Healthcare and Other Direct Care Settings to Return to Work Following COVID-19 Exposure – Including Quarantine and Furlough Requirements for Different Healthcare Settings.”](#))

In addition, the guidance states that employees **not under a quarantine or isolation order**, whose employers nonetheless bar them from work due to COVID-19 exposure (or possible exposure), must be paid their regular rate until they return to work or enter quarantine or isolation. Notably, the COVID-19 leave law itself says leave is required only for employees who **are** under a quarantine or isolation order.

The state's earlier [FAQs](#) on the law remain valid. For further information, contact the [New York Department of Labor](#).

New York has also passed a state [law](#) requiring that employees receive a sufficient period of paid leave to be vaccinated for COVID-19, up to **four hours per vaccine injection**. The law applies to all private employers and specified public employers. Employees must be paid their regular rate of pay during the leave, and the leave may not be counted against any other leave to which the employee is entitled, including paid sick leave required by state law. The law took effect March 12, 2021, and expires Dec. 31, 2022. The New York Department of Labor has issued [FAQs](#) about the law.



## Oregon

The Oregon Bureau of Labor and Industries issued a temporary rule, later made [permanent](#), clarifying that Oregon family leave covers an employee's absence to care for their child whose school or place of care has been closed in conjunction with a statewide public health emergency. Additional [rules](#) provide clarifications to the terms "child care provider" (includes unpaid and unlicensed providers such as grandparents and neighbors), "place of care" (expansive definition includes homes and other locations not solely dedicated to child care) and "closure" of schools and child care. The rules also permit intermittent leave for intermittent school and child care closures, and explain what kind of verification for leave may be required.

Oregon has also issued [guidance](#) on the use of sick time (which may be used for public health school closures) and family and medical leave in the context of COVID-19.

## Pennsylvania

- Philadelphia—Effective March 29, 2021, Philadelphia workers are entitled to up to 80 hours of paid employee leave for specific COVID-19-related reasons, under a new city Public Health Emergency Leave [ordinance](#). Employers were required to notify employees about the law by April 13, 2021. A model [notice](#) provided by the city compares the current PHEL law with a similar law that expired in December 2020. The PHEL law remains in effect until one week after the end of the public health emergency.

The law applies to employers with **50 or more employees**. It covers employees who have worked for a given employer for at least **90 days and**:

- Work in Philadelphia;
- Normally work in Philadelphia but are currently teleworking from another location as a result of COVID-19; **or**
- Work for a given employer from multiple locations or mobile locations, if at least 51% of their work time is spent in Philadelphia.

Full-time, part-time and union employees **are** covered by the law; however, seasonal, temporary, and state or federal employees are **not** covered. Leave must be provided for [certain reasons](#) related to an employee's or family member's COVID-19 symptoms or exposure, to the COVID-19-related closure of child care or school, or to receive a vaccine or recover from vaccination.

With some exceptions, employers must offer PHEL in addition to other paid leave and may not require employees to use PHEL before other leave.

More information about the ordinance can be found on a city [website](#) dedicated to COVID-19 paid sick leave resources.

- Pittsburgh—Effective Dec. 9, 2020, through a week after the end of the public health emergency, employers with **50 or more employees** are [required](#) to provide covered employees with up to **80 hours** of paid sick time for specified COVID-19 reasons (relating to their own or another's illness or exposure) that prevent them from working or teleworking. The ordinance covers employees who:
  - Have been employed by the employer for 90 days;



- Work within Pittsburgh after Dec. 9, 2020;
- Normally work within Pittsburgh but are currently teleworking from any other location as a result of COVID-19; or
- Work from multiple locations or from mobile locations, if 51% or more of the employee's time is spent within Pittsburgh.

Employees who work 40 or more hours per week are entitled to a minimum of 80 hours of leave. Part-time workers are entitled to an amount of leave equal to the amount of time the employee is otherwise scheduled to work or works on average in a 14-day period, whichever is greater, unless the employer opts to grant more leave. The ordinance contains a formula for computing leave hours for variable-hour employees.

There is no waiting period for use of the leave. In addition, employers are temporarily prohibited from withholding sick time on an accrual basis under Pittsburgh's paid sick time law if an employee's sick time use request arises directly from COVID-19. Employers must make available the maximum amount of sick time required under the Pittsburgh paid sick time law to employees immediately upon hiring, if their requested use arises directly from COVID-19. Employers may continue to require receipt of sick time on an accrual basis for all other requests for the leave.

The COVID-19 sick time is in addition to any paid leave or sick time provided by employers, and it may be used before any other paid sick leave. Employers may substitute leave required under federal or state law to the extent the requirements coincide and to the extent permitted by the federal or state law. Employers may substitute additional leave provided specifically for COVID-19 use after March 13, 2020, to the extent the requirements coincide.

## Rhode Island

The Rhode Island Division of Labor and Training is waiving certain eligibility requirements for individuals filing COVID-19-related claims under the state's temporary disability insurance and temporary caregiver insurance programs. The Division has developed a [fact sheet](#) with further information.

## Washington

Washington state has created a temporary grant program to provide paid family and medical leave (PFML) to individuals who, due to COVID-19, are unable to meet the "hours-worked" requirement for the benefit. The grant program is outlined in an April 21, 2021, [amendment](#) to the PFML law. **Employees may begin filing for the grants Aug. 1, 2021.**

Washington PFML imposes an eligibility requirement of 820 hours worked in either the first four of the last five calendar quarters or the last four completed calendar quarters preceding the application for leave. The new law allows workers who do not meet the hours-worked requirement but are otherwise eligible for PFML to receive a pandemic leave assistance employee grant for the benefit. To be eligible, the worker's PFML claim must have a start date between 2021 and March 31, 2022, and the worker must have:

- Worked 820 hours during the first through fourth quarters of 2019; or
- Worked 820 hours during the second through fourth quarters of 2019 and first quarter of 2020.

The worker's failure to meet the regular hours-worked requirement cannot result from job loss due to misconduct or a voluntary separation unrelated to the pandemic.

# HR COMPLIANCE BULLETIN



Certain **employers** with 150 or fewer employees may be eligible for a \$3,000 or \$1,000 grant to assist with the costs of leave taken by employees who have received the PFML grants. Employers with voluntary plans are not eligible.

Under a different law that has expired, food production employers were [prohibited](#) from operating between **Aug. 18, 2020, and Nov. 13, 2020**, unless they provided employees not covered by FFCRA leave with **emergency supplemental paid sick leave**.

## *Local Laws*

- Seattle—On June 1, 2020, the Seattle City Council passed an [ordinance](#) requiring food delivery network companies and transportation network companies to provide gig workers working in Seattle with paid sick and paid safe time during the COVID-19 emergency. The ordinance took effect July 12, 2020. It covers employers with at least 250 gig workers worldwide, and it mandates at least one day of earned sick and safe time for every 30 days worked in Seattle. Accrual is retroactive to Oct. 1, 2019, or the beginning of employment, whichever occurred or occurs later.

The law will remain in effect for three years after the end of the civil emergency proclaimed by the mayor on March 3, 2020; three years after any Seattle COVID-19 civil emergency proclaimed by a public official; or on Dec. 31, 2023, whichever is latest.

In addition, an [emergency rule](#) made it an impermissible unreasonable burden under the city's paid sick and safe time law for employers to require verification of an employee's illness from a health care provider. Alternative means of verification are suggested in the rule. The rule was scheduled to remain in effect until June 7, 2020.