

The Emergency Paid Sick Leave Act



*An Employee Benefits, Retirement Planning,
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In response to the coronavirus (COVID-19) pandemic, on March 18, 2020, Congress enacted a bill providing various forms of relief, including two separate laws mandating that employers give employees paid leave for specified purposes related to COVID-19. The two leave laws are the **Emergency Family and Medical Leave Expansion Act**, and the **Emergency Paid Sick Leave Act**. The leave mandates take effect no later than 15 days after passage (April 2, 2020) and sunset on Dec. 31, 2020. The following highlights key requirements of the Emergency Paid Sick Leave Act (the Act).

THE EMERGENCY PAID SICK LEAVE ACT

Covered Employers

The Act applies to all private employers with **fewer than 500 employees**, and all government employers.

Covered Employees

All employees are covered, regardless of the length of their employment with their current employer. However, employers may choose not to provide paid sick leave to employees who are **health care providers** or **emergency responders**.

Paid Sick Leave

All full-time employees, regardless of the length of time they have worked for their employer, are entitled to 80 hours of paid sick time, available for immediate use. Part-time employees are entitled to an amount of paid sick time equal to the average number of hours they work over a two-week period. Paid sick time may be taken when the employee:

1. Is subject to a federal, state or local quarantine or isolation order related to COVID-19
2. Has been advised by a health care provider to self-quarantine due to concerns related to COVID-19
3. Is experiencing symptoms of COVID-19 and is seeking a medical diagnosis
4. Is caring for an individual who is subject to a federal, state or local quarantine or isolation order related to COVID-19, or who has been advised by a health care provider to self-quarantine
5. Is caring for his or her child if the child's school or place of care has closed, or the child's care provider is unavailable, because of COVID-19 precautions
6. Is experiencing another substantially similar condition specified by the Secretary of Health and Human Services (HHS)

Employers may not require employees to use other paid leave before using paid leave under the new law. The law allows for future regulations exempting businesses with fewer than **50 employees** from providing leave for reason 5, above.

An employer may require an employee to follow reasonable **notice procedures** after taking leave the first time.

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Compensation

Under the Act, employers must pay employees at their regular rate of pay if the employee is taking leave for a reason related to their own symptoms of COVID-19 or exposure to the illness (reasons 1-3 in the list above). Compensation for these workers is capped at **\$511** per day and **\$5,100** per month. Employees who are taking leave to care for family members (reasons 4 and 5 in the list above), and employees whose leave falls under reason 6 in the list above are only entitled to be paid at **two-thirds** of their regular rate.

Employer Notice Requirements

The Department of Labor is charged with making a required employer notice available within one week of the law's passage. Employers must post the notice in conspicuous places on their premises, where notices to employees are customarily posted.

Enforcement

Employers who violate the new paid sick leave law will be subject to penalties under the federal Fair Labor Standards Act.

Tax Credit

Employers are entitled to a credit against the tax imposed by section 3111(a) or 3221(a) of the IRS Code for each calendar quarter of an amount equal to 100% of qualified sick leave wages paid. Tax credits are also available for the self-employed.

AGENCY GUIDANCE

The U.S. Department of Labor has issued the guidance documents on the Emergency Family and Medical Leave Expansion Act and the Emergency Paid Sick Leave Act, all available on its [COVID-19 and the American Workplace webpage](#).

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