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SERVING AND STRENGTHENING VERMONT LOCAL GOVERNMENTS

# Vermont's New Paid Sick Leave Law

Many municipalities already provide generous leave allowances to their employees. Even so, they need to pay attention to Act 69, Vermont's recently-passed legislation which requires a minimum amount of paid sick leave for many employees. Not surprisingly, the devil is in the details, and some details will affect all VLCT members.

The law applies to all employers but excludes the following categories of workers:

- part-timers who average fewer than 18 hours per week;
- temporary or seasonal employees who work 20 or fewer weeks per year;
- employees who are under 18 years old; and
- bona fide independent contractors.

Members should note that the law provides a floor, not a ceiling. This means that employers may choose to be more generous than the law's provisions. It does not matter what the leave time is called (sick leave, paid time off, combined time off, annual leave, etc.) as long as it meets the new statutory requirements. In general, beginning January 1, 2017, Vermont employers must allow employees (other than those listed above) to earn at least one hour of paid sick leave for every 52 hours worked.

Small employers, defined as having *five or fewer* employees who work 30 or more hours per week, are given an extra year to comply, as denoted in Act 69's timeline:

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| January 1, 2017 | • "Large" employers (those with six or more employees who work 30 or more hours per week) must begin to allow their eligible employees to accrue paid leave.<br>• Employers may require employees to wait up to one year before using such leave.<br>• Employers may limit the amount of accrued leave to as few as 24 hours per year. |
| January 1, 2018 | • "Small" employers (those with five or fewer employees who work 30 or more hours per week) must begin to provide the minimum accruals.<br>• Larger employers that have imposed a waiting period must allow employees to use their accrued leave time.<br>• Employers may limit the amount of accrued leave to as few as 24 hours per year. |
| January 1, 2019 | • Small employers that have imposed waiting periods must allow employees to use their accrued leave time.<br>• Employers may limit the amount of accrued leave to as few as 40 hours per year. |

The law spells out five reasons for which employees must be allowed to use the paid leave. *All members will need to expand current leave policies and practices to include at least these reasons*. Accrued leave may be used when the employee:

1. is ill or injured;
2. obtains professional diagnostic, preventive, routine, or therapeutic health care;
3. cares for a sick or injured family member, including helping that individual obtain diagnostic, preventive, routine, or therapeutic health treatment, or accompanying the employee's parent, grandparent, spouse, or parent-in-law to an appointment related to his or her long-term care;
4. is arranging for social or legal services or obtaining medical care or counseling for the employee or a family member who is a victim of domestic violence, sexual assault, or stalking or is relocating because of any of these; or
5. cares for a family member because the school or business where that individual is normally located is closed for public health or safety reasons.

Under the law, an employee's family member is a parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child. This usage does not precisely match that of the Vermont Parental and Family Leave Act (VPFLA), which additionally includes a civil union partner, step-child, and ward of the employee. For administrative ease and consistency in how employees are treated, it may be helpful for municipalities subject to the VPFLA to include all aforementioned categories in defining the term "family" across subsections of their personnel policy.

Keep in mind that the law dictates minimum benefit levels and municipalities may be more generous than these provisions.

**Waiting period.** Employers may require a one-year waiting period before employees use their accrued leave. The accrual process, however, must begin upon the law's effective date for existing employees and upon the hire date for newly hired employees.

**Accrual limits.** During the first two years – i.e., from January 1, 2017 through December 31, 2018 – accrued leave may be capped at 24 hours in a 12-month period. Beginning in 2019, accrued leave may be capped at 40 hours in a 12-month period.

**Carryover.** An employer is permitted to choose to provide the full amount of required leave at the beginning of the year and not carry forward unused accruals into the following year; or, an employer may choose to pay out unused accruals at the end of the year. Otherwise, an employee's accruals must carry forward into the next year, up to the accrual limits specified by the law or by the employer, whichever is greater.

**At termination.** When an employee separates from service, the municipality is *not* required to pay him or her for any accrued, unused leave.

**Notice requirements.** Municipalities will be required to post conspicuously in the workplace a notice about employees' rights under this law. The Vermont Department of Labor (VDOL) will create the poster and VLCT will let members know when it is available. Additionally, employers must provide new hires with a copy of the notice. The notice can be provided separately or as part of the municipality's personnel policy.

In summary, by the effective dates noted previously, members will need to update their leave policies and practices to ensure:

- all employees who work 18 or more hours per week, are age 18 or older, and who work more than 20 weeks per year accrue paid leave;
- paid leave accrues at a rate of at least one hour of paid leave for every 52 hours worked; and
- earned paid leave may be used for the five reasons set forth in the statute.

The full text of Act 69 is posted on the Vermont Legislature website. Additionally, VDOL, which is responsible for overseeing the law's implementation, is in the process of creating administrative rules. Once written, these rules will be posted on their website for comment. VLCT will keep members apprised as more information becomes available. For more details about this law, please see the Municipal Assistance Center's Human Resources Assistance Program web page.

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