

Emergency Paid Sick Leave

The Families First Coronavirus Response Act (FFCRA) requires employers with under 500 employees to provide paid sick leave to employees in certain circumstances relating to COVID-19. The FFCRA states that paid sick leave must be provided to ALL employees regardless of the amount of time worked.

Specifically, the Act provides:

SEC. 5102. PAID SICK TIME REQUIREMENT.

IN GENERAL An employer shall provide to each employee employed by the employer paid sick time to the extent that the employee is unable to work (or telework) due to a need for leave because:

- 1. The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.*
- 2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.*
- 3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.*
- 4. The employee is caring for an individual who is subject to an order as described in subparagraph (1) or has been advised as described in paragraph (2).*
- 5. The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter H. R. 6201-19 has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions.*
- 6. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.*

Except that an employer of an employee who is a health care provider or an emergency responder may elect to exclude such employee from the application of this subsection.

Full-time employees are to receive 80 hours of paid sick leave. Part-time employees are to receive an amount based on the average number of hours they work in a two-week period.

Under the FFCRA, an employee cannot be forced to find a replacement for their missed shift. Additionally, an employer cannot require an employee to use other paid leave provided by the employer to the employee before the employee uses FFCRA paid sick time.

The FFCRA also mandates that employers post the requirements of the FFCRA in a noticeable place on their employment premises.

There are caps that are provided that specify:

- the maximum amount of pay during the leave will not exceed \$511 per day (\$5,110 in the aggregate) when sick leave is used for reasons identified in subparagraphs (1), (2) or (3) above (related to employee's own health); and
- maximums of \$200 per day (\$2000 in the aggregate) when sick leave is used for reasons identified in subparagraphs (4), (5) or (6) above, largely related to care of a family member.

Small businesses with less than 50 employees may be eligible for an exemption by applying to the Secretary of Labor if paying sick leave would jeopardize the viability of the business.

Tax Credits to Employers

Division G of the FFCRA, which addresses tax credits for paid sick leave and paid FMLA, states that, with certain qualifications and conditions, employers will be allowed to take an IRS credit against Social Security taxes for 100% of the qualified sick leave wages paid by such employer for each calendar quarter.