

February 11, 2022

ALERT!

California COVID Supplemental Paid Sick Leave is Back

Yes, it's true: They did it again. On February 9, 2022, Governor Gavin Newsom signed [SB 114](#) into law thereby reinstating California COVID-19 Supplemental Paid Sick Leave (SPSL) for employers with 26 or more employees.

While the 2022 version of SPSL looks a lot like 2021's version ([SB 95](#)), there are differences -- notably that 2021 leave provided one block of up to 80 hours leave for full-time employees while 2022 staggers the leave into two buckets of 40 hours. The first 40 hours is provided up front for covered COVID-19 related reasons with an additional 40 hours available upon receipt of a positive test.

Below are highlights of the 2022 SPSL. MCAC will distribute a more detailed review next week.

In the interim, please make sure to check out the articles at the bottom of this alert for a deeper dive.

KEY POINTS

- **Applies to employers with 26 or more employees.** Employers with 25 or fewer employees are currently exempt from SB 114 requirements but remain subject to applicable local paid sick leave ordinances and [Cal/OSHA ETS exclusion pay](#).
- **Employers must comply with the new law by February 19, 2022**, 10 days following the bill's signing.
- **Supplemental Paid Sick Leave is in effect January 1, 2022 through September 30, 2022.** You read correctly: It applies retroactively to January 1, 2022.
- **There are no tax credits to assist with the added costs of this new paid sick leave.**
- **The maximum amount of SPSL is \$511 per day and \$5,110 in the aggregate .**
- **The available amount of SPSL must be shown on the employee's paystub or other written method employees receive on payday.**
- **The 2022 SPSL applies to instances where the employee may have contracted COVID outside of work and is in addition to any CA paid sick leave or Cal/OSHA ETS exclusion pay.**
- **Notice to employees is required.** The Labor Commissioner's office is to make a model poster available within 7 days of bill enactment or by February 16, 2022.

STEPS TO PREPARE

1. Prepare an updated policy.
2. Plan for the paystub requirement.
3. Keep an eye out for the notice that will be posted by the Labor Commissioner's office.

4. Have a process in place to handle leave requests (both new and retroactive).
5. Evaluate the number of retroactive or true-up payments you may need to make.
6. Remember not to request any other medical information or underlying diagnosis when requesting documentation to support the leave request.
7. Remember that you cannot use SPSL before paying exclusion pay. ¹

**February 19, 2022 the 10-day grace period ends
and the requirement to provide leave is effective.**

Want more? A couple of good articles on SB 114 are listed below.

- Sweeney Mason article [here](#) - *California Reinstates COVID-19 Paid Sick Leave - 2/9/22*
- JD Supra article [here](#) - *Update: California Governor Signs SB 114 to Reinstate COVID-19 Supplemental Paid Sick Leave - Written by Morgan Lewis- 2/10/22*

¹ Fisher Phillips *California's 2022 COVID-19 Supplemental Paid Sick Leave - What Employers Need to Know* February 2, 2022
Source URL <https://www.fisherphillips.com/news-insights/california-covid19-supplemental-paid-sick-leave.html>

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