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Comparison of California State & Local Paid Sick Leave (PSL) Laws[1]

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	CALIFORNIA **Effective 7/1/2015** *California Healthy Workplaces, Healthy Families Act of 2014 (AB 1522)*, Cal. Labor Code §§ 245, *et seq.* & 2810.5	**SAN FRANCISCO** **Effective 2/5/2007** *San Francisco Paid Sick Leave Ordinance*, S.F. Administrative Code, Ch. 12W	**OAKLAND** **Effective 3/2/2015** *Oakland Minimum Wage Law (Measure FF)*, Oakland Municipal Code § 5.92, *et seq.*	**EMERYVILLE**[2] **Effective 7/2/2015** *Emeryville Minimum Wage, Paid Sick Leave, and Other Employment Standards Ordinance (Ord. No. 15-004)*, Emeryville Municipal Code, Ch. 37, Title 5
Interaction of PSL Laws	Employers subject to local PSL ordinances must comply with both the local and state laws. Where the laws conflict, the provision that is more generous to employees will apply.			
Covered Employers	All employers regardless of size.	All employers regardless of size.	All employers regardless of size.	All employers regardless of size.
Covered Employees	Any employee who, on or after July 1, 2015, works in California for the same employer for at least 30 days within a year. Includes temporary, per diem, part-time, full-time, exempt and non-exempt employees.	All employees who perform work in SF. Includes temporary, part-time, full-time, exempt and non-exempt employees.	All employees who **work at least 2 hours in Oakland** in a particular week. Includes temporary, part-time, full-time, exempt and non-exempt employees.	All employees who **work at least 2 hours per week in Emeryville**. Includes temporary, part-time, full-time, exempt and non-exempt employees.
Excluded Employees	• Employees covered by a collective bargaining agreement containing specified provisions. • In-home support services employees. • Airline flight deck or cabin crew employees with equivalent benefits. • Public-sector employees receiving a retirement allowance.	• Employees covered by a collective bargaining agreement expressly waiving the benefit. • Employees who work in SF only on an occasional basis totaling less than 56 hours within a calendar year or attend conferences or conventions in SF for less than 56 hours within a calendar year.	• Employees covered by a collective bargaining agreement expressly waiving the benefit.	• Employees covered by a collective bargaining agreement expressly waiving the benefit.

[1] Additional local ordinances apply only to hotel workers. Long Beach's Measure N, which voters approved in November 2012, entitles hotel workers to five paid sick days. Even more generous is Los Angeles' Citywide Hotel Worker Minimum Wage Ordinance, enacted in October 2014, which applies to hotels with 150+ guest rooms in Los Angeles and the Airport Enterprise Hospitality Zone (AEHZ), and entitles full-time hotel workers to 96 hours (12 days) of paid time off and 80 hours (10 days) of unpaid time off, with proportional accruals for part-time employees.

[2] Emeryville's PSL Ordinance explicitly adopts the provisions of the California law where the Ordinance is otherwise silent.

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Accrual Date	PSL accrual begins on the **first day of work** or 7/1/2015, whichever is later.	**State Law Applicable.** SF recently confirmed that its provision permitting both accrual and use only after 90 days of employment is no longer applicable.	PSL accrual begins on the **first day of work** or 3/2/2015, whichever is later.	PSL accrual begins on the **first day of work** or 7/2/2015, whichever is later.
Use Date	Can be used **90 calendar days** after the start of employment.	**State Law Applicable.** SF recently confirmed that its provision permitting both accrual and use only after 90 days of employment is no longer applicable.	**Same as State Law:** Can be used 90 calendar days after the start of employment.	**Same as State Law:** Can be used 90 calendar days after the start of employment.
Accrual Rate	1 hour for every 30 hours worked. Alternative accrual methods are permitted so long as the accrual is on a regular basis, and the employee will have at least 24 hours of accrued PSL available by the 120th day of employment. More information on alternative accrual options is available from CalChamber here.	1 hour for every 30 hours worked in San Francisco.	1 hour for every 30 hours worked in Oakland.	1 hour for every 30 hours worked in Emeryville.
Accrual Caps	PSL accrual can be capped at **48 hours** or 6 days.	Employers with *over 10 employees* can cap annual PSL accrual at **72 hours**. The size of the employer is based on the number of employees regardless of location. SF recently confirmed that its provision allowing a 40-hour cap for employers with 10 or fewer employees is no longer applicable.	PSL accrual can be capped as follows: • *10 or fewer employees*: **State Law Applicable:** 48 hours. (Oakland's provision allowing a 40-hour cap is less generous than state law and therefore not applicable.) • Over 10 employees: **72 hours**. The size of employer is based on number of employees regardless of location.	PSL accrual can be capped as follows: • 55 or fewer employees: **48 hours**. • Over 55 employees: **72 hours**. The number of employees who **work in Emeryville** determine the size of employer.
Use Caps	The law expressly permits employers to limit the amount of PSL an employee can use to **24 hours or 3 days** in each year of employment, calendar year, or 12-month period.	SF's PSL Ordinance contains no provision allowing an employer to limit how much accrued PSL an employee can use.	Oakland's PSL Ordinance contains no provision allowing an employer to limit how much accrued PSL an employee can use.	Emeryville's PSL Ordinance prohibits use caps by providing that, in each year of employment, an employee can use up to the total number of PSL hours accrued.

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Use Increments	Employers can require that PSL be used in **two-hour** increments or less.	**SF Law Applicable:** Employers can require that PSL be used in **one-hour** increments or less.	**Oakland Law Applicable:** Employers can require that PSL be used in **one-hour** increments or less.	**Same as State Law:** Employers can require that PSL be used in **two-hour** increments or less.
Applicable Rate of Pay	Acceptable methods for calculating the rate of pay for sick leave are: (1) **Nonexempt** employees: • The regular rate of pay for the workweek in which PSL is used; or • Calculated by dividing total wages, excluding overtime premium pay, by the total hours worked in the full pay periods of the prior 90 days. (2) For **exempt** employees: Rate of pay is calculated in the same manner as wages are calculated for other forms of paid leave time.	Acceptable methods for calculating the rate of pay for sick leave are: (1) **Hourly** employees, sick leave is paid out at the employee's regular hourly rate. (2) For **salary** employees, sick leave is paid out as follows: • **Nonexempt** employees: Divide the annual salary by 52 weeks, then divide that amount by the number of hours the employee is regularly scheduled to work, not to exceed 40. • **Exempt** employees: Divide the annual salary by 52 weeks, then divide that amount by 40 hours. If the employee's regular work week is less than 40 hours, divide the weekly salary by the number of hours worked during a regular work week.	Acceptable methods for calculating the rate of pay for sick leave are: (1) **Hourly** employees, sick leave is paid out at the employee's regular hourly rate. (2) For **salary** employees, sick leave is paid out as follows: • **Nonexempt** employees: Divide the annual salary by 52 weeks, then divide that amount by the number of hours the employee is regularly scheduled to work, not to exceed 40. • **Exempt** employees: Divide the annual salary by 52 weeks, then divide that amount by 40 hours. If the employee's regular work week is less than 40 hours, divide the weekly salary by the number of hours worked during a regular work week.	Not addressed.
When Payment Due	The payday for next regular payroll period after PSL is taken.	The payday for next regular payroll period after PSL is taken. If an employer has a lawful, reasonable verification requirement, it is not obligated to pay PSL until the employee has complied with the verification requirement.	The payday for next regular payroll period after PSL is taken. If an employer has a lawful, reasonable verification requirement, it is not obligated to pay PSL until the employee has complied with the verification requirement.	**Same as State Law:** The payday for next regular payroll period after PSL is taken.

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Permitted Uses				
Employee's Medical Need	PSL may be used for the diagnosis, care or treatment of an existing health condition, or preventative care of the employee.	PSL may be used when the employee is ill or injured, for the employee to obtain diagnosis or treatment for a medical condition, or for other medical reasons of the employee.	PSL may be used when the employee is ill or injured, for the employee to obtain diagnosis or treatment for a medical condition, or for other medical reasons of the employee.	PSL may be used when the employee is ill or injured, for the employee to obtain diagnosis or treatment for a medical condition, or for other medical reasons of the employee.
Medical Need of Family Member	PSL may be used for the diagnosis, care or treatment of an existing health condition, or for preventative care, of a family member. Covered family members include children, parents, siblings, grandparents, grandchildren, legal wards, and spouse or registered domestic partner.	PSL may be used to provide care or assistance to a family member with an illness, injury, medical condition, or need for medical diagnosis or treatment. Covered family members include children, parents, siblings, legal wards and guardians, grandparents, grandchildren, and either a spouse, registered domestic partner **or designated person**.	PSL may be used to provide care or assistance to a family member with an illness, injury, medical condition, or need for medical diagnosis or treatment. Covered family members include children, parents, siblings, legal wards and guardians, grandparents, grandchildren, and either a spouse, registered domestic partner **or designated person**.	PSL may be used to provide care or assistance to a family member with an illness, injury, medical condition, or need for medical diagnosis or treatment. Covered family members include children, parents, siblings, legal wards and guardians, grandparents, grandchildren, and either a spouse, registered domestic partner **or designated person**.
Victims of Domestic Violence, Sexual Assault, or Stalking	An employee who is a victim of **domestic violence, sexual assault or stalking** may use PSL to seek legal relief, obtain medical or psychological attention, seek the services of a domestic violence shelter, program or rape crisis center, or take other actions to increase his or her safety.	Not covered.	Not covered.	Not covered.
Care for Service Animals	Not covered.	Not covered.	Not covered.	**Emeryville Law Applicable:** PSL may be taken to aid or care for a service dog.
Carry Over	Accrued, unused PSL carries over year to year.	**Same as State Law:** Accrued and unused PSL carries over year to year.	**Same as State Law:** Accrued and unused PSL carries over year to year.	**Same as State Law:** Accrued and unused PSL carries over year to year.
Can Be Cashed or Paid Out?	No. PSL cannot be cashed out and does not get paid out at separation.	No. PSL cannot be cashed out and does not get paid out at separation.	No. PSL cannot be cashed out and does not get paid out at separation.	No. PSL cannot be cashed out and does not get paid out at separation.

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Employer's Notice Requirements	Three significant notice requirements: (1) The **Poster** created by the California Labor Commissioner must be conspicuously displayed in the workplace. (2) The **Wage Notice** provided to non-exempt employees at the time of hire must summarize PSL rights. (3) On each pay day, the amount of available PSL must be included on the itemized **wage statement** or in a separate writing. Employers who provide unlimited sick leave can satisfy the wage statement requirement by indicating "unlimited" on the employee's wage statement. The wage statement requirement will not apply to employees covered by Wage Orders 11 (broadcasting industry) or 12 (motion picture industry) until 1/21/2016.	Employers must post a notice of rights prepared by the SF Office of Labor Standards Enforcement in a conspicuous place in the workplace. The notice must be posted in English, Spanish, Chinese and any other language spoken by at least 5% of employees at the workplace or job site.	Employers must **provide a notice of rights** prepared by the Office of the City Administrator to each current employee and to each new employee at time of hire. Employers must also **post the notice of rights** in a prominent location in work areas that can be seen by all employees. The notice must be in all **languages** spoken by more than 10% of the employees. English, Spanish and Chinese versions of the notice are available on the website of the Office of the City Administrator.	Employers must **provide Emeryville's Official Notice of Rights** prepared by the City of Emeryville to each current employee and to each new employee at time of hire. Employers must also **post Emeryville's Poster** where it can be read easily by all employees. The Official Notice and Poster must be provided in all languages spoken by 10% or more of the workplace's Employees. English, Chinese, Farsi and Spanish versions are available on the website of the City of Emeryville's Economic Development & Housing Division.
Employee's Notice Requirements	If the need for PSL is foreseeable, the employee must provide reasonable advance notice. If the need is unforeseeable, the employee must provide notice as soon as practicable.	An employer may require reasonable notice of a PSL absence. The employer can define "as soon as reasonably practicable" as an amount of time not exceeding 2 hours before the start of the work shift, provided exceptions are provided for situations such as accidents, emergencies or sudden illnesses for which an advanced-notice requirement would be unreasonable.	An employer may require notice as soon as reasonably practicable. The employer can define "as soon as reasonably practicable" as an amount of time not exceeding 2 hours before the start of the work shift, provided exceptions are provided for situations such as accidents, emergencies or sudden illnesses for which an advanced-notice requirement would be unreasonable.	An employer may require reasonable notice of a PSL absence.

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Can Employer Require a Doctor's Note?	Not addressed. However, in an April 2015 webinar, the California Labor Commissioner opined that denying PSL for failure to provide a doctor's note or other details about the leave may be unlawful.	Yes, if the employee uses PSL for more than three consecutive work days. Employer may also require a doctor's note or other documentation to verify that the use of PSL was consistent with the Ordinance: • Where a pattern or clear instance of abuse exists, even if the use of PSL was for three consecutive work days or less. • When PSL is used to attend a medical appointment, even if the use of PSL was for three consecutive work days or less.	Yes, with limitations. Requiring a doctor's note for use of PSL for **three or more consecutive work days** is presumptively reasonable. If an employer reasonably believes that an employee has engaged in a pattern of PSL abuse, the employer may require a physician's note or other documentation to verify that an employee's subsequent use of PSL is permitted, even if the subsequent PSL use is for less than 3 consecutive work days.	Not addressed.
Effect of Interruption of Employment	If rehired within one year from the date of separation, the **previously accrued and unused PSL must be reinstated**, and can be used immediately upon rehire. Previously accrued and unused paid time off that was paid out at the time of separation does not need to be reinstated upon rehire.	**Apply State Law.** SF recently confirmed that its provision not requiring PSL reinstatement upon rehire is no longer applicable.	Not addressed. Apply State Law.	Not addressed. Apply State Law.
Record Retention Requirements	Records documenting the hours worked and paid sick days accrued and used by an employee must be maintained for **3 years**.	**Apply SF Ordinance:** Records documenting the hours worked and paid sick days accrued and used by an employee must be maintained for **4 years**.	Records documenting the hours worked and paid sick days accrued and used by an employee must be maintained for **3 years**.	Records documenting the hours worked and paid sick days accrued and used by an employee must be maintained for **3 years**.

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Existing Paid Time Off Policies	No additional benefits required if existing policy makes available an amount of leave that may be used for the same purposes and under the same conditions and satisfies one of the following: • Policy meets the statute's accrual, carry over and use requirements; or • Policy applied before 1/1/2015, and employees (a) have at least 1 day or 8 hours of accrued paid time off within 3 months of employment of each calendar year or each 12-month period, and (b) can accrue at least 3 days or 24 hours of paid time off within 9 months of employment; or • Policy is provided to certain public-sector employees.	No additional benefits are required if the existing paid leave policy can be used for the same purposes and meets the minimum accrual requirements of the Ordinance.	No additional benefits are required if the existing paid leave policy can be used for the same purposes and meets the minimum accrual requirements of the Ordinance.	Not addressed. Apply State Law.
Private Right of Action	The statute does not directly permit a private right of action by an aggrieved employee. It remains unclear, however, if an aggrieved employee can file suit under the California Private Attorney General Act of 2004 (PAGA).	Yes. An aggrieved employee can bring a civil action in court to enforce the Ordinance.	Yes. An aggrieved employee can bring a civil action in court to enforce the Ordinance.	Yes. An aggrieved employee can bring a civil action in court to enforce the Ordinance.

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