

# Employers Need to Know

Employment Law Alerts from Ober|Kaler's Employment & Labor Group

## Employment & Labor Group

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## DC's New Leave Law: What Employers Need to Know

All employers, regardless of size, with employees in the District of Columbia must comply with the Accrued Sick and Safe Leave Act of 2008. Effective November 13, 2008, this new law mandates that all employees receive paid leave between three to seven days annually for physical, mental, or certain legal conditions.

The amount of accrued leave mandated depends upon the employer's size:

- **Fewer than 25 employees:**
  - 3 days
  - 1 hour earned for every 87 worked
- **25-99 employees:**
  - 5 days
  - 1 hour earned for every 43 hours worked
- **100 or more employees:**
  - 7 days
  - 1 hour earned for every 37 hours worked

Leave begins to accrue upon employment but may not be used during the first ninety days. Exempt employees only accrue leave at a maximum of forty hours worked per week. Full-time employees with large and small employers will typically accrue their leave over twelve months. Full-time employees at mid-size employers, however, will accrue their maximum leave after about ten months. Unused accrued leave must carry over to the subsequent year. In any given year, however, the employee is not entitled to use more leave than the may be accrued during a twelve month period. Unused leave is not payable to the employee upon termination.

Employees may use the leave for physical or mental illness, obtaining medical diagnosis or care, or for social or legal services arising from stalking, domestic violence or sexual abuse. Employees may also use their leave to care for family members for the same purposes. Beyond spouses, children and parents, the term "family member" broadly includes grandchildren, in-laws, siblings and domestic partners.

Employers are entitled to appropriate notice before an employee may use the leave and may request certification if the leave is for three or more consecutive days. Appropriate notice depends upon the situation.

- **Foreseeable leave:** Employee must give 10 days notice, or as early as possible

- **Unforeseeable leave:** Employee must give notice before the missed work shift.
- **Emergency leave:** Employee must notify the employer upon the earlier of prior to the start of the next shift or twenty-four hours after the emergency arises.

Many employers already offer employees more generous leave policies. Employers may continue to offer their existing policies so long as they give the employee the ability to accrue and use leave under terms and conditions equivalent to the Act. Policies are equivalent if leave may be accrued, accessed, and used in the same amount and for the same purposes as required under the Act.

Employers must post a notice of the rights under this act in English and any other language spoken by employees with limited or no English proficiency. Employers who willfully do not comply with the posting or leave requirements are subject to a fine.

If you have any questions about the new law, would like to discuss your existing leave policy, or would like a copy of the Accrued Sick and Safe Leave Act of 2008, please contact **Harold Belkowitz** at **202-326-5037** / **[hgbelkowitz@ober.com](mailto:hgbelkowitz@ober.com)** or any member of **Ober|Kaler's Employment & Labor Group.**

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