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D.C. City Council Removes Final Obstacle to Enforcement of Sick and Safe Leave Amendments

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The District of Columbia City Council has paved the way for full enforcement of the District's Earned Sick and Safe Leave Amendments Act of 2013. Employers should comply with the amendments as of October 3, 2014.

The Council repealed the requirement that the Act "shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan," so the amendments then became effective immediately, even though the District's FY 2015 budget has not been finally approved, and may not be approved until 2015. For more information on the steps that led to the applicability of this law, see our article When Will D.C. Sick and Safe Leave Act Amendments Apply?

Changes to the Sick and Safe Leave Act (SSLA) include removing a requirement that employees work for one year prior to accruing SSLA leave. Instead, the Act provides that leave starts to accrue on the date of hire and can be used after 90 days. Employees now are eligible to accrue and use leave whether or not they have worked 1,000 hours in the prior 12 months. The amendments also extend the law to cover tipped restaurant employees — a sea change for the hospitality industry.

Gone is a provision mandating that accrued sick/safe leave be carried over from year to year, and a companion provision that employees can use only one year's accrual of leave in any calendar year. Although these deletions may have been inadvertent, they are causing headaches for employers, who now arguably must permit leave to carry over indefinitely and to be used without any annual cap.

Finally, the amendments strengthen employee anti-retaliation protections and, for the first time, permit employees to sue for violations of the SSLA. (For more on the amendments, see our article, District of Columbia Strengthens Employee Sick and Safe Leave Protections.)

Employers should change their leave policies to comply with the February 22 amendments. They should consider modifying leave tracking systems to allow for accrual and use of SSLA leave. They must also ensure that managers, benefits professionals and human resources staff know how to comply with the law. It is not clear whether retroactive accrual, dating back to February 22, 2014, is required, but the D.C. Department of Employment Services (DOES), which enforces the law, maintains that the law was effective as of February 22, 2014. The DOES also has issued a mandatory workplace poster setting forth the requirements of the new law.

If you have any questions about this or other workplace issues that affect your business, please contact Teresa Burke Wright, at WrightT@jacksonlewis.com, Francis P. Alvarez, at AlvarezF@jacksonlewis.com, Joseph J. Lynett, at Joseph.Lynett@jacksonlewis.com, or the Jackson Lewis attorney with whom you regularly work.

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