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New Jersey's Earned Sick and Safe Days Act Becomes Effective This Month: New Posting Requirement and Proposed Regulations

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The Earned Sick and Safe Days Act, signed by Governor Murphy on May 2, 2018, takes effect on October 29, 2018. The New Jersey Department of Labor and Workforce Development recently released the mandatory notice that must be posted and distributed to all New Jersey employees under the Act.

The Notice informs employees of several key provisions of the Act and mandates employers to post and distribute the Notice to its employees. New employees must receive the Notice from their employer at the start of their employment. Existing employees must receive the Notice by November 29, 2018. Employers should also post the Notice in a conspicuous and accessible place at all work sites and make the Notice available to employees upon request.

In addition to the posting requirement, the Notice relays the information outlined below to employees:

Accrual of Earned Sick Leave Time

The Notice informs employees that sick leave accrues at the rate of 1 hour for every 30 hours worked, up to a maximum of 40 hours of sick leave per benefit year, or that the employer can choose to provide the 40 hours of earned sick leave up front. The Notice also informs employees that they can begin to use earned sick leave accrued under the Act 120 days after beginning employment.

Use of Earned Sick Leave Time

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The Notice outlines several categories of covered events that enable an employee to utilize their earned sick leave time. These reasons include self-care, care for a family member, school-related conferences, meetings or events regarding the employee's child's education, among other reasons outlined in the Act and Notice.

Notice to Employer of Use of Earned Sick Leave Time

The Notice informs employees that to the extent it is foreseeable that earned sick leave time will be utilized by the employee for a qualifying event, the employer may require up to 7 days advance notice of the employee's intention to use earned sick leave. If the need to use earned sick leave time is unforeseen, the employer may require the employee to give notice as soon as practicable.

Unused Earned Sick Leave Time

Any unused earned sick leave may be carried over into the next benefit year, however, the employer is only required to allow an employee to use up to 40 hours of leave time per benefit year. Alternatively, the employer can also offer to purchase the unused earned sick leave at the end of the benefit year.

Prohibition on Retaliation

The Notice informs employees that they have a right to be free from retaliation for using earned sick leave time and that the employer cannot retaliate against the employee for:

- Requesting and using earned sick leave;
- Filing a complaint for alleged violations of the law;
- Communicating with any person, including co-workers, about any violation of the law;
- Participating in an investigation regarding an alleged violation of the law; and
- Informing another person of that person's potential rights under the law.

A copy of the Notice can be found at: [Sick Leave Poster](#)

In addition, employers should be aware that the New Jersey Department of Labor and Workforce Development (NJDOLE) recently issued eagerly anticipated proposed regulations to implement the law. Public hearings as to these regulations will be held on November 19, 2018, after the law takes effect.

The regulations, once in effect, will provide guidance to employers related to accrual/advancement and usage of earned sick leave time. The regulations will also provide guidance as to applicable penalties for violations of the Act, including violation of the prohibition on retaliation and discrimination based on an employee's use of earned sick leave time. Finally, among other details, the proposed regulations set forth a five year recordkeeping requirement for documenting the hours worked by employees and earned sick leave accrued or advanced by the employer.

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If you have any questions concerning the requirements and regulations outlined in this Alert, please contact the authors, **Jemi Gouliau Lucey** and **Punam P. Alam**, a member of the firm's **Employment Law Practice Group**. Additional information on the specific provisions of the Earned Sick and Safe Days Act is available here: [New Jersey Employers Are Now Required to Provide Paid Sick Leave.](#)