

California Supplemental Paid Sick Leave in 2021 (SB 95)



California workers impacted by COVID-19 have new rights to paid sick leave.

SB 95, effective 3/29/21, creates a new right to up to 80 hours of supplemental paid sick leave for many workers with COVID-19 related absences in 2021, filling the gap that was left by the expiration of the Families First Coronavirus Response Act and Labor Codes 248 and 248.1.

The new bill creates Labor Code sections 248.2 and 248.3, key provisions of which include:

ELIGIBILITY

The 2021 SPSL laws only apply to workers at businesses with *more than 25 employees* (LC 248.2), and in-home supportive services providers (LC 248.3).

AMOUNT OF LEAVE RESTARTING THE CLOCK

SB 95 creates a new right to 80 hours of Supplemental Paid Sick Leave in 2021 – in other words, if a full-time worker received 80 hours under the FFCRA or LC 248.1 in 2020, they could be eligible for another 80 hours under the new 248.2 this year if they miss work due to a qualifying reason. However, employers can count COVID-specific paid leave benefits paid in 2021 – e.g. voluntary FFCRA pay, Food Sector Workers' leave pay, or pay pursuant to a voluntary employer policy – against their obligation to pay 2021 Supplemental Paid Sick Leave.

QUALIFYING REASONS

Qualifying reasons for 2021 SPSL expand on those in the FFCRA. However, note that the 2020 California SPSL qualifying reason of being “prohibited from working due to concerns related to the transmission of COVID-19” is not available. The full list of potential qualifying reasons is:

- Worker is subject to a COVID-19 quarantine or isolation order.
- Worker has been advised by a health care provider to self-quarantine due to COVID-19;
- Worker is experiencing COVID-19 symptoms and seeking a diagnosis.
- Worker is caring for a family member who is under quarantine due to COVID.
- Worker is caring for a child at home whose school or childcare provider is unavailable due to COVID.
- Worker is attending an appointment to receive a COVID-19 vaccine; and
- Worker is unable to work due to symptoms associated with the COVID-19 vaccine.

RETROACTIVE TO JANUARY 1, 2021

The new laws apply to any absence due to a qualifying reason on or after January 1, 2021. This means that workers who took unpaid leave during quarantine periods that occurred in January, February, or March 2021 have the right to be compensated retroactively for up to 80 hours of work missed during those quarantine periods. This retroactive payment shall be paid on or before the payday for the next full pay period after the oral or written request of the covered employee.