

Puerto Rico Senate Approves Bill on Sick Leave, Pay During Cessation of Operations Because of COVID-19

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Following declaration of a state of emergency by Puerto Rico Governor Wanda Vázquez due to the Coronavirus (COVID-19) pandemic on March 16, 2020, the Puerto Rico Senate has approved a bill addressing sick leave for private sector employees and requiring employers to pay employees if the employer decides to cease its operations due to the pandemic.

Senate Bill No. 1538 generally provides that the new law would be effective until the Governor repeals Executive Order 2020-023, which established a state of emergency aimed at detaining the spread of COVID-19 in Puerto Rico. (For more on Executive Order 2020-023, see our article, [Puerto Rico Goes on Lockdown, Imposes Mandatory Curfew in Response to Outbreak of COVID-19.](#))

Temporary or Extended Business Closure

Under SB 1538, an employer that decides to cease its operations due to the pandemic, either partially or for a prolonged period, must continue to pay its employees their salary or compensation.

Part-time or hourly employees' compensation would be based on the average of hours worked per week. Hours or days paid due to the stay of operations cannot be charged against employees' leave banks.

Employers can adopt measures for its employees to work remotely.

Sick Employees

SB 1538 would allow an employer to prevent an employee from coming to work if the employee develops any of the symptoms of COVID-19 or is at risk of contracting the virus because the employee traveled to a high-risk destination. In these cases, employees will be entitled to sick leave provided by law.

Sick Leave

Under SB 1538, full-time employees who have not completed the applicable probationary period would be entitled to paid sick leave up to a maximum of five days.

Exempt Employees

Employees classified as administrators, executives, and professionals whose employment contract does not provide for vacation leave will be entitled to paid sick leave of up to five days under SB 1538.

Part-time employees will be entitled to paid sick leave for up to five day, and their pay would be based on the average of hours worked daily.

Exceptions

SB 1538 would not apply to employees covered by a collective bargaining agreement.

Penalties

SB 1538 incorporates the penalties provided for in Act No. 180-1998, known as the “Puerto Rico Minimum Wage, Vacation and Sick Leave Act.”

The Bill 1538 is before the Puerto Rico House of Representatives for consideration. We continue to monitor its progress and will provide updates on any developments.

SB 1538 is separate from House Bill 2428, which, in its current form, would provide paid emergency leave of five days. (For more on House Bill 2428, see our article, [Puerto Rico Bill to Provide Emergency Leave for Pandemic Illness Revised to Require Paid Leave.](#))

Jackson Lewis attorneys and the dedicated [COVID-19 Task Force](#) are ready to assist with any questions.

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