

DEPARTMENT OF HUMAN RESOURCES

520 Main Street, Room 115, Quincy, California 95971

(530) 283-6444 FAX (530) 283-6160

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COVID-19 Supplemental Paid Sick Leave Law

INTRODUCTION

On February 9, 2022, Governor Newsom Signed Senate Bill “SB” 114 into law. The law reauthorizes COVID-19 Supplemental Paid Sick Leave (SPSL), providing paid leave entitlements to employees who are unable to work or telework due to a number of qualifying reasons related to COVID-19. The Law became effective on February 19, 2022 and will require covered employers to provide SPSL to qualifying employees retroactive to January 1, 2022 and through September 30, 2022.

The total maximum amount of COVID-19 supplemental paid sick leave a covered employee is entitled to pursuant to this section shall not exceed 80 hours for the period between January 1, 2022 and September 30, 2022.

OVERVIEW of THE MAJOR PROVISIONS OF SB 114

Qualifying Reasons to Take SPSL

The law requires that covered employers provide SPSL to any employee who cannot work or telework due to one or more of the following COVID-19 related reasons:

1. The covered employee is subject to a quarantine or isolation period related to COVID-19 as defined by an order or guidance of the California Department of Public Health (CDPH), the federal Centers for Disease Control and Prevention (CDC), or a local public health officer who has jurisdiction over the workplace.
2. The covered employee has been advised by a health care provider to isolate or self-quarantine due to COVID-19.
3. The covered employee is attending an appointment for themselves or a family member to receive a vaccine or a vaccine booster for protection against COVID-19.
4. The covered employee is experiencing symptoms, or caring for a family member experiencing symptoms, related to a COVID-19 vaccine or vaccine booster that prevent the employee from being able to work or telework. This is limited to 24 hours or three (3) days, per Labor Code 248.6¹ subdivision (b)(2)(D)(ii).

¹ If additional time is needed, the employee can provide verification from a health care provider that the covered employee or family member is continuing to experience symptoms.

5. The covered employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
6. The covered employee is caring for a family member who:
 - a. Is subject to a CDPH, CDC, or local health officer order or guidance to isolate or quarantine, or
 - b. Has been advised by a health care provider to isolate or quarantine.
7. The covered employee is caring for a child whose school or place of care is closed or otherwise unavailable for reasons related to COVID-19 on the premises.
8. The covered employee, or a family member for whom the covered employee is providing care, tests positive for COVID-19.

Amounts of SPSL Available to Covered Employees

1. SPSL Available for Reasons 1 through 7
 - a. Full-Time Employees: Employees who worked at least 40 hours per week in the two weeks before they take SPSL, or who the employer considers to be full-time employees, are entitled to use up to 40 hours of SPSL for qualifying reasons 1 through 7 above.
 - b. Other Employees: If an employee does not fall into the first two categories (e.g., works part-time), then the amount of SPSL will depend on the employee's schedule.
 - i. Part-time Employees with Regular Schedules: If the employee has a regular weekly schedule, then the employee will receive an amount of SPSL equivalent to one regular workweek for qualifying reasons 1 through 7.
 - ii. Part-Time / Seasonal Employees with Irregular Schedules: If an employee works variable hours, then the employer must calculate the average number of hours the employee worked each workday over the last six months and multiply the result by seven to get the amount of SPSL. If the employee has worked for fewer than six months, then the employer calculates the average hours worked for the entire employment period and multiplies the daily average by seven.

If an employee works variable hours and has worked for only seven days or fewer, then the employee receives an amount of SPSL equivalent to the total number of hours worked for the employer.

2. SPSL Available for Reason 8

In addition to the leave amounts described above, SB 114 also grants employees a separate "leave bank" of SPSL for qualifying reason 8 that equals the amount of

SPSL the employee received for qualifying reasons 1 through 7. Plumas County will provide two separate leave banks to covered employees: (1) a leave bank for qualifying reason 1 through 7 with an amount of leave based on their work schedule, as described above; and (2) a leave bank for qualifying reason 8 with an equivalent amount of leave as provided to the employee for qualifying reasons 1 through 7.

Employees who take SPSL under qualifying reason 8 may also qualify for SPSL coverage under more than one of the above-enumerated qualifying reasons (see qualifying reasons 1, 2, and 6). Plumas County will ascertain the specific qualifying reason for the employee's leave in order to deduct SPSL from the appropriate leave bank and properly record such leave usage.

ADDITIONAL REQUIREMENTS AND LIMITATIONS ON SPSL TAKEN FOR REASON "8"

Qualifying SPSL for reason 8 under SB 114 limitations:

1. Employees must produce test results to confirm leave entitlement for reason 8. The employee will be required to provide a positive test result from an independent third party either for themselves or for a family member if requesting leave to provide care to a covered family member. A documented test result produced by a third party will ensure that the County remain in compliance with the regulatory requirements for tests under the Cal/OSHA Emergency Temporary Standard (ETS).

SB 114 expressly provides that if an employee refuses to produce the initial positive test result for either the employee themselves or their family member, depending on the reason for the leave, then the employer has no obligation to provide SPSL for reason 8.

2. Employers are authorized to require that employees who use leave because of a positive COVID-19 case re-test five days after the initial positive test result.

For the purpose of potentially discontinuing isolation after a positive COVID-19 Test, both the CDPH and DIR state a preference for antigen tests to determine an individuals' status. Employees who test negative for COVID-19 on or after day five and who do not present COVID-19 symptoms may end their isolation periods and return to work. Employees will need to provide documentation of the negative test, through a third party or home self-test, at no cost to the employee.

3. Employees are not required to exhaust leave banks for reasons 1 through 7 before using leave for Reason 8.

Compensation for Use of SPSL

Under SB 114, the compensation for SPSL for employees is determined by the employees' exemption status and their pay rate.

For nonexempt employees, compensation is based on the employee's regular rate of pay *or* the employee's total wages less any overtime premium pay. For exempt employees, the law requires employers to calculate employee compensation for SPSL as they would for other forms of paid leave time.

Employers are *not* required to pay employees more than \$511 per day when using SPSL and *not* more than \$5,110 in total.

If an employee's regular compensation exceeds \$511 per day, the employee may elect to supplement the SPSL maximum pay amount with other accrued paid leaves to make up the difference in pay.

SPSL Effective Period

1. SPSL Leave Obligations Take Effect on February 19, 2022

The new SPSL obligations will take effect 10 days after the Governor enacts SB 114 into law, but as described below, will be retroactive to January 1, 2022.

2. SPSL Leave Obligations Retroactive to January 1, 2022

SPSL will apply retroactively to cover leave taken by employees on or after January 1, 2022 that would otherwise have qualified under reasons 1 through 8.

In other words, if an employee was unable to work or telework due to one of the eight qualifying reasons enumerated above and used another paid leave (or went without pay), then the employee may request that SPSL be applied retroactively to that leave and the employer should restore the leave that the employee used previously.

While employees may request the retroactive application of paid leave either orally or in writing, employers should request that employee make such requests in writing in order for the employer to document such requests and demonstrate their compliance with the law.

3. SPSL Leave Obligations Will Remain in Effect through September 30, 2022

The SPSL obligations will remain in effect through September 30, 2022. However, as with the SPSL provided under SB 95, an employee who is using SPSL on September 30, 2022 may continue to use the leave after that expiration date so long as the leave is uninterrupted, and the employee has SPSL remaining available for their use.

Certification

An employee using SB 114 Supplemental Paid Sick Leave (SPSL) must certify the reason for the leave request on Plumas County's required forms. Employees must complete the applicable forms to receive family and medical care leave and report by phone to their

supervisor. In addition, it is important to maintain communication with your supervisor and Human Resources for the status of your leave. Human Resources will require completed forms in order to process the leave request.

Codes for Leave Types needed for processing employees' time cards for payroll.

Use the corresponding pay code for the type of leave used and document time cards with the code.

Pay Code:

Full Time Employees

079 = SB114 SPSL – Reasons 1-7 (up to 40 hours)

080 = SB114 SPSL – Reason 8 (up to 40 hours)

Extra Help Employees

081 = SB114 SPSL – Reasons 1 – 7, Scheduled/average work hours

082 = SB114 SPSL – Reason 8, Scheduled/average work hours

SB 114 COVID-19 SPSL Request

It is imperative to contact your supervisor or department head to inform them of your current circumstances. If the employee is required to be absent on sick leave for more than one day, the employee must keep the immediate supervisor informed each day as to the date the employee expects to return to work and the purpose of the leave. Failure to request sick leave as required by Personnel Rules, without good reason, may result in the employee being treated as absent without leave.

Leave Request Forms:

- Employee Certification of Need for Supplemental Paid Sick Leave
- Employee Certification of Need for Supplemental Paid Sick Leave due to Child Care Needs
- Employee Certification to Return to Work After Exhibiting Symptoms of COVID-19 or Suspicion of Having or Being Exposed to COVID-19 (use for Reason 8 above; may be used if a Doctor's Note is not practicable)

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Employee Certification For COVID-19 Supplemental Paid Sick Leave

Employee Name: _____ Date: _____

Department: _____

Job Title: _____

Personal Contact cell phone #: _____

Primary Email: _____

I, _____, certify that I am unable to work (or telework) for one of
Employee name
the following reasons / qualifying criteria. I request to participate based on the following
reason (check which applies):

1. _____ The covered employee is subject to a quarantine or isolation period related to COVID-19 as defined by an order or guidance of the California Department of Public Health (CDPH), the federal Centers for Disease Control and Prevention (CDC), or a local public health officer who has jurisdiction over the workplace.
2. _____ The covered employee has been advised by a health care provider to isolate or self-quarantine due to COVID-19.
3. _____ The covered employee is attending an appointment for themselves or a family member to receive a vaccine or a vaccine booster for protection against COVID-19.
4. _____ The covered employee is experiencing symptoms, or caring for a family member experiencing symptoms, related to a COVID-19 vaccine or vaccine booster that prevent the employee from being able to work or telework. This is limited to 24 hours or three (3) days², per **Labor Code 248.6** subdivision (b)(2)(D)(ii).
5. _____ The covered employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
6. The covered employee is caring for a family member who:
 - a. _____ Is subject to a CDPH, CDC, or local health officer order or guidance to isolate or quarantine, or

- b. _____ Has been advised by a health care provider to isolate or quarantine.
7. _____ The covered employee is caring for a child whose school or place of care is closed or otherwise unavailable for reasons related to COVID-19 on the premises (complete additional form).
8. _____ The covered employee, or a family member for whom the covered employee is providing care, tests positive for COVID-19 (attach positive test result).
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I understand that if my circumstances change, I must immediately inform my supervisor and I may be directed to report to work (or telework). Call Human Resources if you have any questions and return completed form(s) and any attachments to the Human Resources Department.

Employee Signature

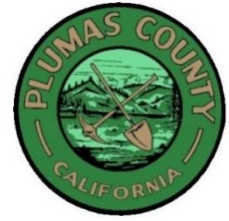
Date

² If additional time is needed, the employee can provide verification from a health care provider that the covered employee or family member is continuing to experience symptoms.

Return your completed form to the Human Resources Department

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**Employee Certification For COVID-19 Supplemental Paid Sick Leave
Due to Child Care Needs**

I, _____, certify that I have a child who is under the age of 18, whose school or place of care has been closed, or whose childcare provider is unavailable due to a COVID–19 emergency declared by a government authority. Due to the need to care for my child, I am unable to work (or telework). I understand that if my childcare needs change, I must immediately inform my supervisor and the Human Resources Department and I may be directed to report back to work (or telework).

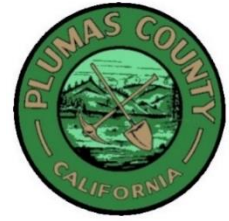
Signature

Date

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COVID-19 Supplemental Paid Sick Leave For Reason 8
(May be used if a Doctor's Note is not practicable)

I, _____, certify that I have been free of fever (a “fever” is defined as 100.4° F [37.8° C] or greater using an oral thermometer), or signs of a fever without the use of fever-reducing medicines, and any other COVID-19 related symptoms (*e.g.*, cough or shortness of breath) are improving. Furthermore, attached is a negative test for COVID-19 taken on or after the fifth day. The negative test was taken through a third party or home self-test, at no cost to me the employee. I understand that if I do show further signs of having COVID-19 (*e.g.*, fever, cough, or shortness of breath) I must inform my supervisor immediately and the Human Resources Department. I may be directed to either stay away from work or maybe require to undergo a fitness for duty examination at the County's expense and according to the Plumas County policy regarding fitness for duty examinations.

Signature

Date

Return your completed form to the Human Resources Department