



by Donald R. Lee

Emerging concern for hoteliers: Paid sick leave. From benefit to mandate?

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An estimated 70 million working Americans lack sick time benefits. Proponents of paid sick leave laws say this is a problem that needs to be fixed. Politicians at the city, state and national levels have lent a sympathetic ear. In 2007, San Francisco became the first locale in America to require employers to provide employees with paid sick leave. Other cities, states and, perhaps even the nation, may soon follow San Francisco's lead

Where we are – where we could be going

At the city level, Milwaukee and Washington, D.C. will consider enacting similar laws this year. Likewise, 10 states – Minnesota, Missouri, Florida, North Carolina, Maryland, Pennsylvania, Connecticut, Massachusetts, Vermont and Maine – have or will consider enacting paid sick leave laws. In addition, Senator Edward Kennedy (D-MA) and Representative Rosa DeLauro (D-CT) have sponsored the Healthy Families Act, which would require every employer in the nation with 15 or more employees to provide 7 days of paid sick leave per year. With Democrats seemingly poised to pick up seats in Congress and in a strong position to win the White House, paid sick leave could become a reality for many hoteliers in 2009, if not before.

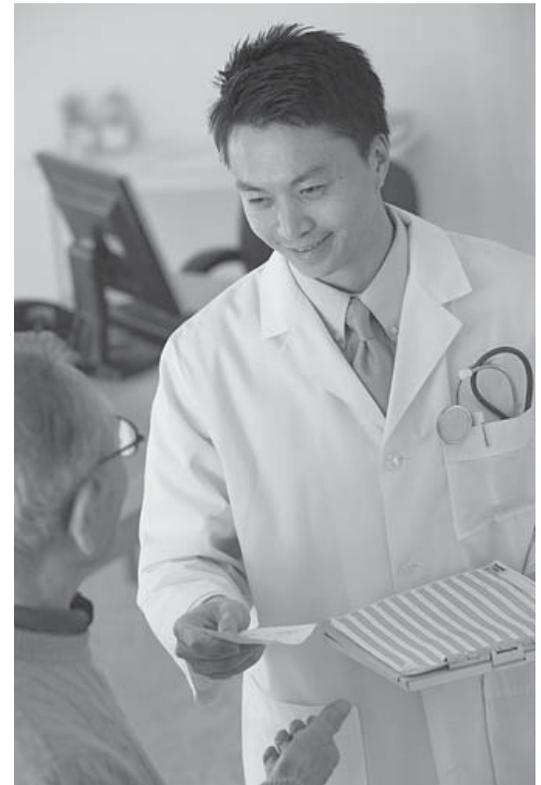
Arguments for and against mandating paid sick leave

Proponents of paid sick leave laws make two primary arguments, one moral and one economic. The moral argument is that it is most often the low-skilled, low-wage employees who do not have paid sick leave, and it's unfair that they should lose money for calling in sick. The economic argument is that mandating paid sick leave will actually save employers money by preventing the spread of illness that occurs when sick employees show up for work – the so-called "presenteeism" problem.

Opponents of mandatory paid sick leave make the following counter-arguments. With

respect to the morality issue, they note that mandating paid sick leave may actually harm the very people it is intended to help. Mandating paid sick leave will cost employers money. As we all know, when employers are required to increase one facet of compensation, they typically reduce costs in other areas to keep overall compensation in line. If history is any guide, employers may respond to mandatory sick leave by decreasing wage rates or increasing the employees' share of their health insurance premiums. For many unskilled workers earning at or close to minimum wage, with few health insurance benefits, however, there may be no areas for employers to offset the increased expense of mandatory paid sick leave. The end result could be that low-skill workers are put out of work entirely, especially if employers believe that mandatory paid sick leave would result in overall compensation costs greater than the value added by low-skill employees.

In response to the claim that mandating paid sick leave will actually save employers money, the law's opponents note the following. First, employers already have incentives for ensuring that sick workers stay home. An hotelier, for example, knows it's bad for business to have a visibly ill employee serving guests. Second, mandated sick leave has the potential for abuse. What about employees who think they will be moving on in a few months? They know they can't take the paid sick leave with them, so why not use it now, whether they're sick or not? Third, paid sick leave will almost assuredly increase absenteeism, which of course could compromise service.



What to expect based on the San Francisco experience

The bills being considered across the country are not carbon copies of the San Francisco ordinance. That said, if your property is located in an area where mandatory paid sick leave could soon become the “law of the land,” there are lessons to be learned from San Francisco.

The San Francisco ordinance imposes a 90-day eligibility period before paid sick leave begins to accrue. If the law of your state/city imposes a similar eligibility period, you may want to consider utilizing temporary labor to help minimize the costs of mandatory paid sick leave, particularly for any lower-skill jobs that have less of a “ramp-up” time.

You should also ensure that your record-keeping system is equipped to keep track of the amount of sick time used by your employees, possibly to the hour. (The San Francisco ordinance, for example, allows employers to require employees to use paid sick leave in one-hour increments.) To help combat the fraudulent use of paid sick leave as “vacation time,” you may want to consider enhancing your medical documentation policy while simultaneously assuring that such enhancements comply with the Family Medical Leave Act and all applicable medical privacy laws. These are just a few examples of things hoteliers should be thinking about before mandatory paid sick leave takes effect.

Hoteliers’ bottom line

Like any new law, if mandatory paid sick leave legislation is enacted where you are, there will be an initial period of unsettlement while hoteliers and other employers sort through it. That’s the bad news. The good news is that mandatory paid sick leave is not inevitable. If you believe it’s a bad idea for businesses and employees alike, get in touch with your local chamber of commerce so you can make your thoughts known to them and the politicians who represent you. ✧

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