

# California Mandatory Paid Sick Leave: Are You Ready?

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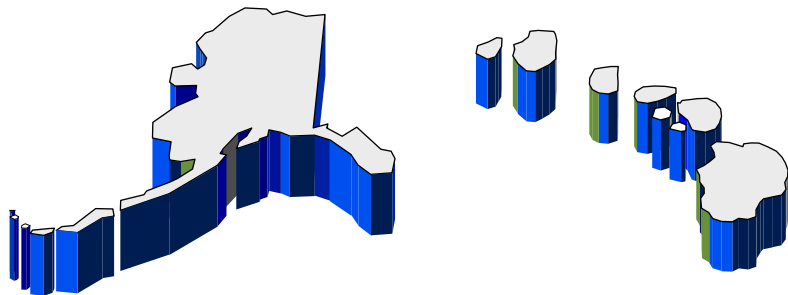
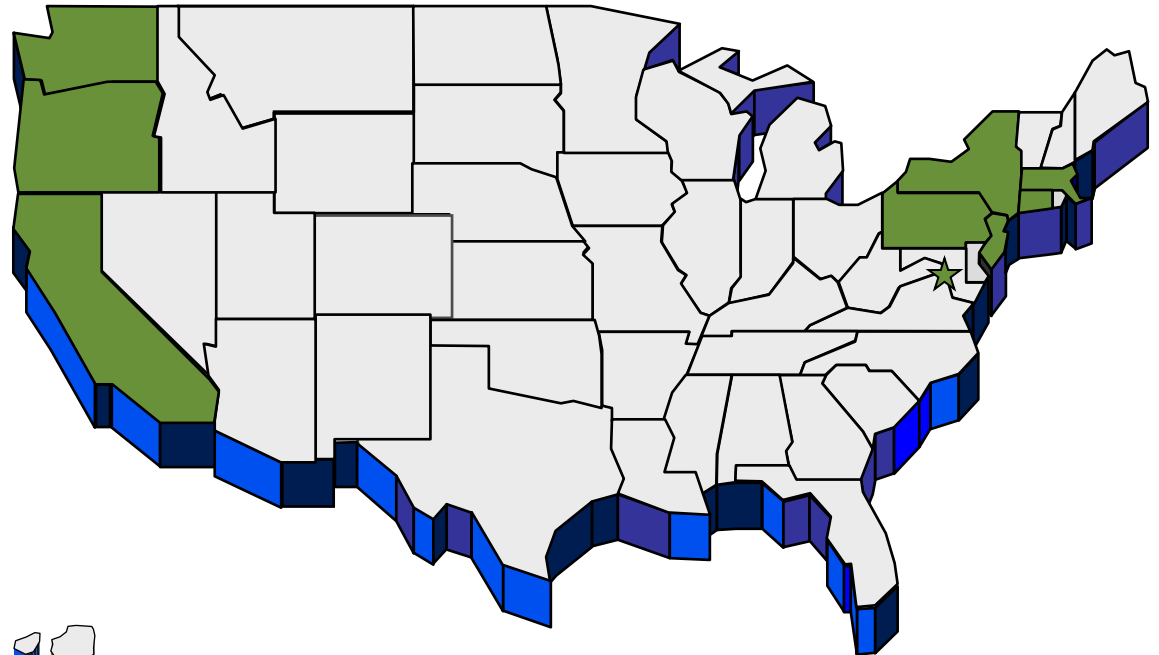


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# Jurisdictions That Have Passed PSL Laws

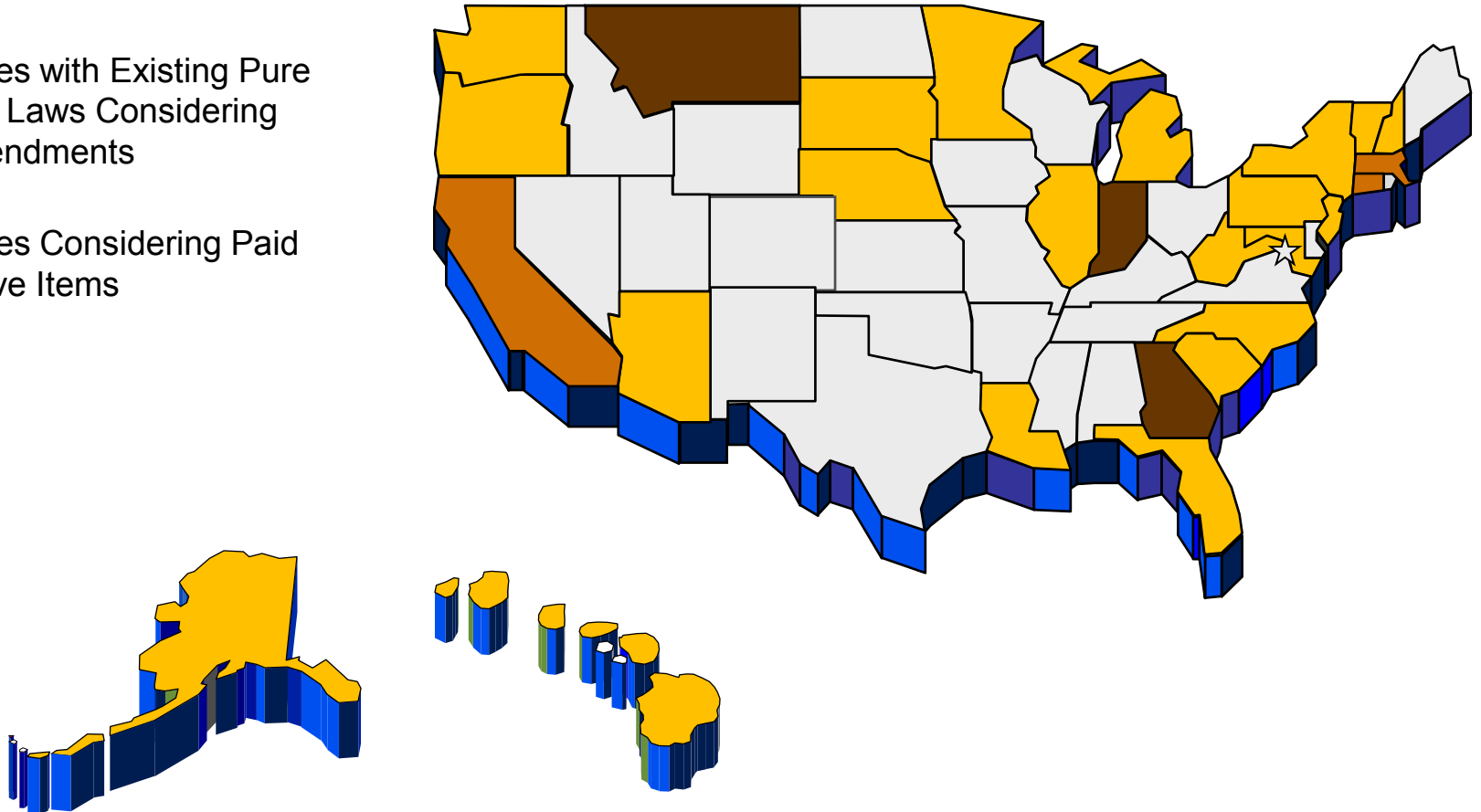
## ■ Jurisdictions that have passed PSL Laws

- California (State)
- Long Beach, CA (Hotels)
- Los Angeles, CA (Hotels)
- Oakland, CA
- San Francisco, CA
- Connecticut
- District of Columbia
- Massachusetts
- Bloomfield, NJ
- East Orange, NJ
- Irvington, NJ
- Jersey City, NJ
- Tacoma, WA
- Montclair, NJ
- Newark, NJ
- Passaic, NJ
- Paterson, NJ
- Trenton, NJ
- New York City, NY
- Eugene, OR
- Portland, OR
- Philadelphia, PA (Gov't Contracts & Generally)
- Seattle, WA
- Sea-Tac, WA (Hospitality / Transportation)



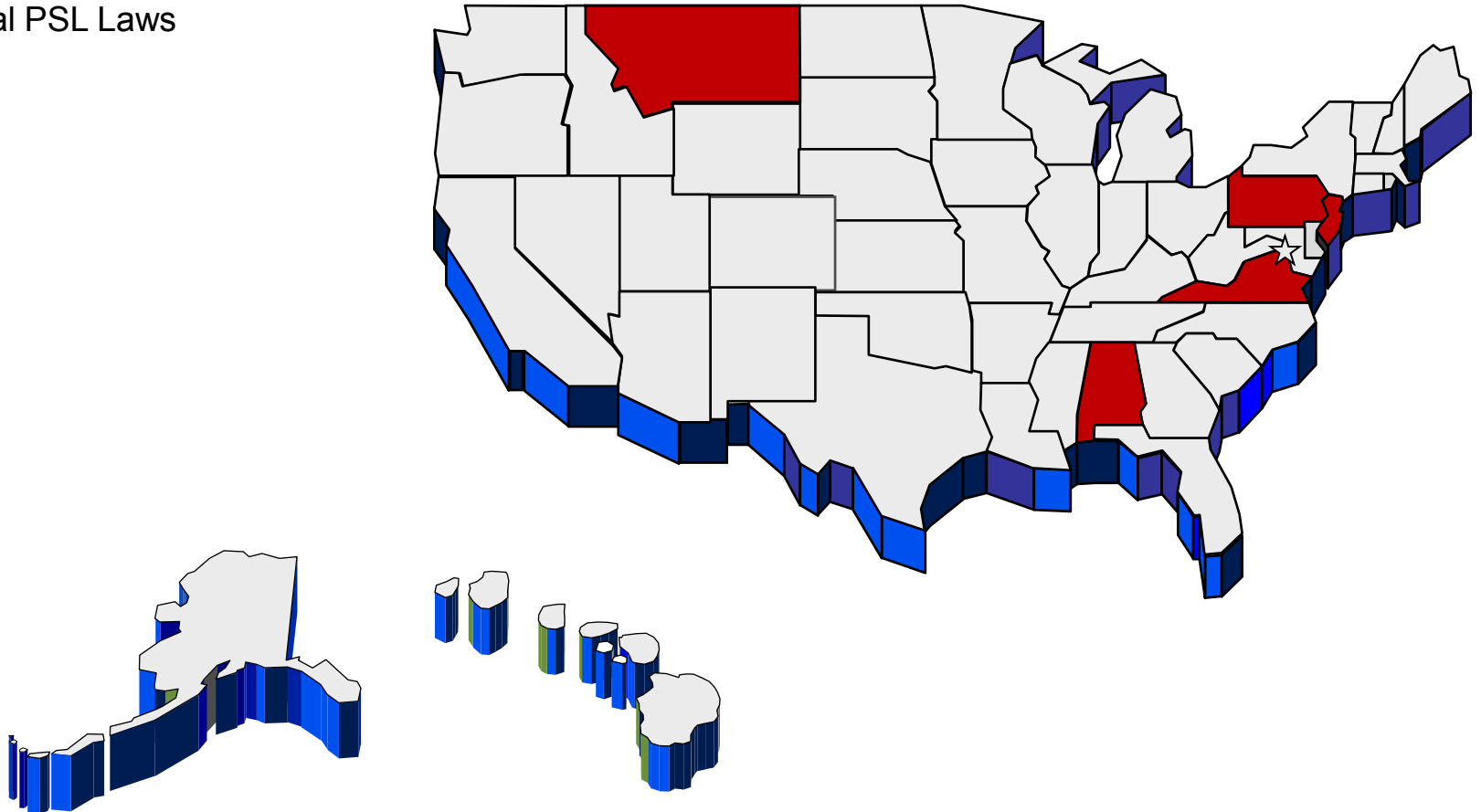
# 27 States Considering New or Revised Sick Leave Laws

- States Considering New Pure PSL Laws
- States with Existing Pure PSL Laws Considering Amendments
- States Considering Paid Leave Items



# States Considering Bills to Ban PSL Laws

■ (Potential) States Considering Bills to Ban Local PSL Laws



# San Francisco and Oakland already have PSL laws

- San Francisco PSL – in effect since 2007
- Oakland PSL – effective date March 2015
  - Set the stage for California’s new PSL law
  - Applies to anyone working more than 2 hours in city limits
  - Greater accrual caps than California PSL law
  - Mandatory accrual and carry-over requirements not present in California PSL law
  - May be followed by other municipalities unhappy with scope of California PSL law (i.e., San Diego)



# PSL for Virtually All Employees

- Healthy Workplaces, Healthy Families Act of 2014
  - Applies to *all* Cal. employers, *regardless of size*
  - If you have one or more employees, this means you
- Includes part-time and temp employees
- Limited exceptions:
  - Most employees covered by a CBA
  - Home health care employees
  - Certain flight deck or cabin crew members



# How PSL Can Be Used

- Upon oral or written request for:
  - Diagnosis, care, or treatment of existing health condition, or preventive care (or domestic violence/assault/stalking)
    - For employee or “family member”
  - If practicable, “reasonable advanced notice” required
  - Employee cannot be required to find replacement
  - Doctor’s note not required





# How PSL Can Be Earned and Used

- Employees accrue 1 hour per 30 hours worked, including OT
- Must work 30 days in California
- Must have been employed for 90 days



# How PSL Can Be Earned and Used

- Use of existing policies:
  - Must satisfy usage, accrual and carryover requirements
- Can “front load” three days of sick leave



# How PSL Can Be Earned and Used

- Employees accrue 1 hour per 30 hours worked, including OT
- Accrual begins on July 1, 2015, or if hired after that date on first date of employment
- Employers can require PSL to be used in “reasonable minimum amounts” (e.g., two-hour increments)

# When PSL Can Be Used



- Employers can cap use at 24 hours (or three “paid sick days”) in each year of employment
- But if an employer uses an alternative schedule (such as 4x10s), a “paid sick day” can be more than 8 hours

# How PSL Can Be Accrued, Capped

- Employees can carry over accrued hours to their next year of employment
- Employers can cap banked hours at 48 (six “paid sick days”)
- Upon termination, employers not required to cash out accrued, unused PSL (unless sick/vacation combined in PTO bank)



# What Else Employers Must Do

- Display a poster, provide notice upon hiring and each time wages are paid
- Keep all relevant records for three years and provide to employee upon request
- If existing PTO or PSL policy provides more, an employer need not provide additional time



# Retaliation: Prohibited, Presumed

- Employers cannot retaliate against employee for taking or requesting PSL
- A rebuttable presumption of retaliation exists when adverse action is taken against employee within 30 days of request



# What You Can Do Now

- Review and revise (if necessary) PSL and/or PTO policies and anti-retaliation policies
- Obtain and display necessary posters
- Begin providing notice by 1/1/15
- Ensure that timekeeping, payroll, and benefits systems properly calculate, track, and detail sick time; preserve documentation
- Train relevant personnel on new requirements





# Paid Sick Leave Side Effects

- PTO for compliance = pay out at termination, restrictions/requirements apply to all PTO
- Rehire within 12 months = give back accrued, unused sick/PTO
- New Wage Theft Protection Act notice to employees
- Failure to post notice = \$100 per offense



# More Paid Sick Leave Side Effects

- Withholding paid sick days = \$ equivalent of withheld days x 3 or \$250, whichever is greater
- Failure to show time available for sick use on paystubs = \$50 per person, up to \$4,000 penalty
- Labor Commissioner investigation may = \$50 per day fee per person (no maximum)
- PAGA right of action = ???



# Retailer Issues



- Perfect Attendance Bonuses???
- Minimum increment not to exceed 2 hours: How does that impact scheduling?
- Seasonal/part-time employees: Accrual or frontload?
- Re-hire of seasonal employees: Reinstatement of PSL balance and immediate use
- Paystub requirement: Electronic? Do employees have access to computers?
- Cannot require employees to find someone to cover shift

# Key Dates in 2015

## January 1

- Mandatory Poster Must Be Visibly Displayed (Penalty = \$100 per offense)
- Provide Notice To All New Employees Hired After January 1, 2015
- Eligibility Requirements To Use Sick Leave Commences

## July 1

- Mandatory Accrual Begins

## July 8

- Last Day To Provide Notice To Current Employees:
  - New Separate Notice
  - Notice of Change In Pay Stub or Itemized Wage Statement
  - Notice Can Be Provided To All Current Employees



# Questions?



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