



March 2020

NYS COVID-19 Law: Coronavirus-Related Leave

The NYS COVID-19 Law was passed by the New York State Legislature and signed by the Governor on March 18, 2020, in response to the coronavirus pandemic in New York. The new law ensures that New York employers provide sick leave and certain other benefits to employees who are subject to a mandatory or precautionary order of quarantine or isolation.

When is the NYS COVID-19 Law effective?	March 18, 2020
What is the purpose of the NYS COVID-19 Law?	NYS COVID-19 Law provides employees who are subject to a mandatory or precautionary order of quarantine or isolation with: (1) paid or unpaid sick leave, (2) disability benefits if they are unable to work, and (3) paid family leave, including to care for the employee's child who is subject to mandatory or precautionary order of quarantine or isolation.
Which employees are covered by the NYS COVID-19 Law?	Employees who are subject to a mandatory or precautionary order of quarantine or isolation ("COVID-19 Quarantine") issued by the State of New York, the Department of Health, a local board of health, or any government entity duly authorized to issue such order due to COVID-19 ("Quarantined Employees"). Employees under self-quarantine or practicing voluntary social distancing are not covered.
What are the leave requirements for employers with 10 or fewer employees on January 1, 2020, and a net income of \$1 million or less in the previous tax year?	Quarantined Employees shall be provided with unpaid sick leave until the termination the COVID-19 Quarantine. During the period of COVID-19 Quarantine, an employee shall be eligible for Paid Family Leave ("PFL") benefits and disability benefits.
What are the leave requirements for: (a) employers with 10 or fewer employees on January 1, 2020, and a net income of greater than \$1m in the	Quarantined Employees shall be provided at least 5 days of paid sick leave, plus unpaid leave until the termination of the COVID-19 Quarantine.



previous tax year, or (b) employers with between 11 and 99 employees as of January 1, 2020?	After such 5 days of paid sick leave, a Quarantined Employee shall be eligible for PFL benefits and disability benefits.
What are the leave requirements for employers with 100 or more employees as of January 1, 2020?	Quarantined Employees shall be provided with at least 14 days of paid sick leave during COVID-19 Quarantine. The NYS COVID-19 Law is silent regarding unpaid leave for the remainder of the Quarantine, as well as PFL benefits and disability benefits during such unpaid leave.
Does the NYS COVID-19 Law provide job protection?	Yes. Upon return to work following leave taken pursuant to the NYS COVID-19 Law, the employee shall be restored to the same position with the same pay and other terms and conditions.
Does the NYS COVID-19 Law provide other protections?	The law prohibits discrimination or retaliation against employees who take leave pursuant to the NYS COVID-19 Law.
How does leave taken pursuant to the NYS COVID-19 Law impact other accrued sick leave?	Employers shall provide NYS COVID-19 Law leave without any loss of other accrued sick leave.
What exceptions apply?	The law does not apply in cases where the employee (a) is deemed asymptomatic or has not yet been diagnosed with any medical condition, and (b) is physically able to work while under COVID-19 Quarantine, whether through remote access or other similar means. Employees also are not eligible for paid leave if (a) the employee has returned to the United States after traveling to a country for which the Centers for Disease Control and Prevention has a level 2 or 3 travel health notice, (b) the travel to that country was not taken as part of the employee's employment or at the direction of the employee's employer, and (c) if the employee was provided notice of the travel health notice and



	<p>the limitations of the NYS COVID-19 Law prior to such travel. Such employees may use accrued leave provided by the employer or unpaid sick leave for the duration of the COVID-19 Quarantine.</p>
<p>How does the NYS COVID-19 Law affect an employee's eligibility for disability benefits?</p>	<p>The definition of "disability" is expanded to include any inability of employees to perform their job duties or any other duties offered by their employer as a result of COVID-19 Quarantine.</p> <p>Employees who have exhausted all available paid sick leave under the NYS COVID-19 Law may file for disability without any waiting period.</p>
<p>How does the NYS COVID-19 Law affect an employee's eligibility for PFL benefits?</p>	<p>The definition of "family leave" for purposes of PFL benefits is expanded to include: (a) any leave taken by an employee from work when an employee is subject to COVID-19 Quarantine; or (b) to provide care for a minor dependent child of the employee who is subject to a COVID-19 Quarantine.</p>
<p>How do the NYS COVID-19 Law's disability and PFL benefits interact with the NYS COVID-19 Law's sick leave?</p>	<p>Disability and PFL benefits pursuant to the NYS COVID-19 Law may run concurrently with unpaid sick leave under the NYS COVID-19 Law, but an employee may not collect benefits that would exceed \$840.70 in PFL benefits and \$2,043.92 in disability benefits per week.</p>
<p>What proof does an employee need to prove a COVID-19 Quarantine?</p>	<p>A mandatory or precautionary order of quarantine or isolation issued by the State, the Department of Health, a local board of health, or any government entity duly authorized to issue such order due to COVID-19 shall be sufficient proof of disability or proof of need for family leave.</p>
<p>Does the NYS COVID-19 Law impact unemployment benefits?</p>	<p>The waiting period is waived for claims for unemployment benefits due to closure of an employer for a reason related to COVID-19 or due</p>



	to a mandatory order of a government entity.
How does the NYS COVID-19 Law impact other actions?	<p>The NYS COVID-19 Law does not prohibit any personnel action which otherwise would have been taken regardless of any request to use, or utilization of, any leave provided by the NYS COVID-19 Law.</p> <p>It also does not impact rights under a collective bargaining agreement.</p>
How does the NYS COVID-19 Law interact with the federal Families First Coronavirus Response Act?	<p>The NYS COVID-19 Law provides that if the federal government also passed a COVID-19 sick leave/benefits law, the provisions of the NYS COVID-19 Law would be unavailable, <i>unless</i> the state law provides sick leave and/or employee benefits in excess of the benefits provided by the federal government. In the latter case, an employee can claim additional sick leave and/or employee benefits pursuant to the provisions of the NYS COVID -19 Law in the amount that is the difference between the benefits provided by the state law and by any federal law or regulation.</p> <p>As of the March 18, 2020, the federal government has enacted the Families First Coronavirus Response Act, which only applies to only applies to employers with less than 500 employees.</p>

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