

EAGA Business Builder

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March 01, 2022

Today's speaker was Nestor Romero –The Payroll Company



Mr. Romero used today's presentation to update members about the rules and requirements of New Mexico's Healthy Workplace Act that goes into affect on July 1st of this year. Promoted as a necessary means for providing employees with sick leave, the Act is actually much more than that. Although possibly a burden to small employers, the general requirements of the new law seem straight forward enough: Every employee shall accrue 1 hour of sick leave for every 30 hours worked, up to a maximum of 64 hours per year; the rule applies to every employee (anyone that receives a W-2 form from the employer)-except for government and union workers. The Act is a formal law, so everyone knows that there is a lot more than the basic, straight forward portion. When you look 'under the hood' of the Act, you will find a more complicated world. The accrued time can be taken anytime that the employee wants. It does not have to be just because of an illness of the employee or a family member. The time can be for other reasons too, such as: to prepare for legal proceedings; domestic abuse issues; stalking of the employee; and relocation matters. The employee does not have to give the employer any notice and does not even have to tell the employer at all until after they have returned to the job. That means, if fully accrued for the year, the employee could actually just not show up for work for 8 days (presuming 8 hour work days), then return to the workplace for their normal job. It is acceptable for the employer to try to contact the employee in order to figure out what is going on, but there is no guarantee that such an attempt would shed any light on the situation. In the absence of any communication from the employee there is not any required way for the employer to know whether the worker was away for a valid reason, or had just abandoned their job. And, when returning, the employee does not have to provide a doctor's note, or any other specific proof of the situation. Other issues pertinent to the new Act: Any accrued time that is not used carries over to the next year, however, no matter how many hours have been accumulated, the employer need not pay for anymore than 64 hours in any year; any unused balance need not be paid out when the employee leaves; provisions require that records of accruals and use must be kept for every employee, for at least 3 years; As usual, there is a poster that advises employees of the Act and of the employee's rights. That poster must be displayed in a prominent place, easily viewable by the employees, and the poster must be in every language that is spoken by at least 10% of that company's workers (and be aware—there are huge penalties for not having the poster correctly displayed); Any third party can file a complaint on behalf of an employee if they suspect that the time off has not been accurately accrued, or has not been properly paid. One good thing is that the Act does not automatically award attorney fees in legal proceedings, but leaves that decision to the judge's discretion. If you have not already surmised, the new Act has some confusing aspects. It can be complicated to administer, and can be a generate serious problems if not administered properly. You should CONSULT WITH A PROFESSIONAL and get appropriate advice and assistance to make sure that your company's policies are written correctly and are followed properly. If your current PTO policy meets, or exceeds, the new requirements, you don't have to change anything. CONSULT WITH A PROFESSIONAL to find out if you comply. There are questions as to whether holidays and specific business closure days can be included in the 64 hours calculation. The Act says that employees determine the hours taken. The employer cannot require that workers take certain days as Healthy Workplace hours. CONSULT WITH A PROFESSIONAL to see if your intended practices and calculations are correct. The Act pertains to temporary workers, part-time workers and commissioned employees that work within New Mexico. The Act does not apply to independent contractors. But then, there is not one set of rules that define what is an 'independent contractor'. Workforce Solutions, Workers Comp and other federal and state departments each have their own set of rules. CONSULT WITH A PROFESSIONAL if you need clarification about the qualification of any of your workers. Even when everything else that you are doing complies with the law, calculations regarding employees with a variable wage become somewhat messy when determining the value of time off required by the Act. CONSULT WITH A PROFESSIONAL to figure out how do that for your specific employee's situation. Bottom line is that the Healthy Workplace Act is not just for sick leave; it is complicated; it could be messy; and it could become a big problem if not followed properly...CONSULT WITH A PROFESSIONAL to make sure that your business is in compliance. Attached as page 3 of this publication is a summary of information provided by Mr. Romero. NESTOR ROMERO IS A PROFESSIONAL that can provide accurate and up to date advice. Tom Briones, Esquire was Mr. Romero's tag-team associate in providing answers during this morning's presentation. TOM IS A PROFESSIONAL. Whether you are concerned about navigating any of the multitude of payroll related rules, regulations and standard practices, or you are just concerned about making sure that your business is in compliance with the upcoming Healthy Workplace Act, CONSULT A PROFESSIONAL. You should give The Payroll Company a call at 505-944-0105. Mr. Romero has access to many resources and he stays up to date in all of payroll's many requirements. Using his extensive experience and his accumulated wealth of knowledge, Nestor can help keep your business on the legal side of payroll matters. Remember the mantra when it come to payroll related compliance - CONSULT A PROFESSIONAL! And also remember : NESTOR ROMERO IS A PROFESSIONAL. The Payroll Company 505-944-0105.

Leads & Business Information:

None noted this week

Reciprocity:

None submitted this week

- ◆ A slightly belated Happy Birthday! to one of our Honorary Retired members. On Saturday, March 5th, I.B. Hoover celebrated his birthday for the 90th time.
- ◆ Our March 8th meeting has been designated as a membership recruitment day, and according to the showing of hands today, we will be hosting quite a few quests. Please make sure that you arrive on time so that the meeting can start promptly at 7:00am. Not only will there will be some introductions of the visitors, but we certainly want to make sure that our speaker (Larry Sontag—New Mexico Business Coalition) has sufficient time for his very interesting presentation.
- ◆ Board members please note that the next Board of Directors meeting will be on March 10th. Contact Mario, or President Grant if you need specifics about the time and location.
- ◆ We need Badge Board Greeters as soon as the March 22nd meeting. Please let Mario know if you can take those duties on one of the open days. Mario will also be quite happy to sign you up for one of the speaking dates that are available in late April and in May. Mario's contact information is in the box at the bottom of this page.
- ◆ Adding new members to our group is not just a once a year thought. EAGA is always interested in bringing in quality members that professionally represent their industry and that can make positive contributions not only to our organization, but to the business community in general. Anytime you have someone that you feel would be a great addition to our membership, contact Membership Chairman, Jack Zipper. He can assist with the application process—particularly with making sure that any potential category conflicts have been cleared before an application is submitted. Possible categories to consider:

Podiatrist	Optometrist	Liquor Distributor	Restaurant	Golf Course	Hotel
Masonry/Stone Contractor	Drywall Contractor	Pet Store	Cigar Shop	Garden/Nursery	
Sporting Goods Sales	Television Station	Radio Station	Men's Clothing	Hardware/Tools	

Badge Board Greeters

Mar 8th	Lance Darnell—Darnel Cable & Fasteners
Mar 15th	Rich Rosley—A-TECH Security
Mar 22nd	
Mar 29th	
Apr 5th	Brian Walden—Christians Automotive / Mango Automotive
Apr 12th	
Apr 19th	

Upcoming Speakers

Mar 8th	Larry Sonntag—New Mexico Business Coalition
Mar 15th	Mark Abramson—Los Ranchos Gun Shop
Mar 22nd	Paul Jew—Moji Studio
Mar 29th	Damian Pascetti—Pascetti Steel
Apr 5th	Scott Lardner—Rocky Mountain Stone
Apr 12th	
Apr 19th	

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YET ANOTHER REASON THAT YOU NEED TO OUTSOURCE PAYROLL

HEALTH WORKPLACES ACT a/k/a Paid Sick Leave Act

- Begins on July 1, 2022
- Applies to All Private employers – Even if you have one employee
 - a) Only exemption is Governmental employers
 - b) All employees are eligible for leave including seasonal, part-time, and temporary employees
- Employees accrue 1 hour of leave for every 30 hours they work
 - a) Employers are required to grant up to 64 hours of sick leave per year
- When can employees use their sick leave? July 1, 2022 or their first day of employment (whichever is later)
- Does any unused leave carry over at end of each calendar year?
 - a) Yes, it does
 - b) However, an employer is not required to pay more than the 64 hours of sick leave in any 12 month period
- Does an employer have to pay out accrued sick leave upon termination?
 - a) No
- Paid sick leave is not limited to situations regarding the employee's health. The following are examples of allowable uses of this time in addition to medical related reasons:
 - a) To care for family members
 - b) Relocation
 - c) To prepare for legal proceedings
 - d) Absence due to domestic abuse, sexual assault, or stalking of the employee
- Can employers require employees to produce documentation to be paid for the leave?
 - a) No
- Employers must post information regarding this act in a conspicuous place and provide it in ANY language spoken by at least 10% of the employees
- Already have a policy that is equivalent to the requirements of the law will be deemed to be in compliance
- Most employers have moved to a PTO policy which incorporates sick and vacation leave
 - a) The PTO policy may be amended to incorporate the paid sick leave provisions and reduce the vacation time allowed

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