



New Laws that Protect Employees and Affect Self-Storage Operation During COVID-19

New laws are being enacted to protect employees during the coronavirus crisis. It's critical for self-storage owners to understand how their operation might be affected.

Scott Zucker | Apr 21, 2020

As businesses suffer during the coronavirus crisis, including self-storage operations, there are inevitable questions that apply to managing staff, especially those who've tested positive for COVID-19 or are caring for sick family members. Further, as

revenue declines, decisions relating to furloughs, layoffs or reduced hours weigh on the minds of employers.

These are difficult times and the answers aren't easy, especially as new laws and regulations seem to appear daily from federal, state and local governments. As a self-storage operator, it's critical that you understand what they are and how they affect your business.

Families First Coronavirus Response Act (FFCRA)

This federal law took effect on April 2. It requires certain employers to provide staff with paid sick leave or expanded family and medical leave for specified reasons related to coronavirus. Its provisions will apply through December 31, 2020.

The FFCRA applies to employers with fewer than 500 employees but contains an exemption for those with fewer than 50 employees for whom required compliance would jeopardize the viability of the business. The law applies only to employees who've already been employed with the company for at least 30 days.

Emergency FMLA Expansion Act

Part of the FFCRA, this essentially expands the existing Family Medical Leave Act (FMLA) under which employers must provide up to 12 weeks of job-protected leave when an employee is unable to work (or telework) due to health conditions of his children or other qualified family members.

There are two parts to the concept of "protected leave." The first is employees who take the leave must be restored to the position they held when they left (or an equivalent position) if the job is still in place. If the job doesn't still exist, the employer must make "reasonable efforts" for up to a year to return the employee to an equivalent position. For example, if the job is discontinued during the 12 weeks of leave and then reopened six months later, the employee should be given the opportunity to return to that position if possible.

The second part is pay. All paid time off can be applied to the first 10 days of the leave. After that, the employer must pay “no less than two-thirds of the employee's regular rate of pay” based on normal hours of his individual work. This includes part-time employees. However, the pay for this family leave is limited to \$200 per day and \$10,000 in the aggregate per employee.

Emergency Paid Sick Leave Act

This portion of the law applies to the employees themselves. It includes staff who are sick, advised to self-quarantine, or subject to a federal, state or local shelter-in-place order. Full-time employees are entitled to 80 hours of paid sick leave, assumed to be equivalent to two weeks. Part-time employees would be entitled to the hours worked on average over a similar two-week period.

The employee is entitled to be paid his regular rate of pay for that two-week period, but overall, there's a cap of \$511 per employee per day or \$5,110 in the aggregate per employee. Rates of pay are reduced to two-thirds if the sick leave is taken to care for others, not the employee himself. Under this law, the employer may not require the employee to use other sick-leave time before the 80 hours provided under this law.

Important: For those self-storage operators who are in shelter-in-place locations and told their employees not to report and otherwise intend not to pay them for their hourly work (unless they seek unemployment), those employees may be entitled to compensation under the Emergency Paid Sick Leave Act. However, the law includes tax credits to employers who pay their employees under these laws (credit against the employer's portion of Social Security taxes).

State Declarations

Decisions relating to furloughs, layoffs and work-hour reductions—where employees can seek unemployment compensation—inevitably will cross some of these leave and sick-leave laws to address gaps in compensation the employee may otherwise be

entitled to receive. These issues and related calculations would need to be addressed on a case-by-case basis.

Employees should also be aware of specific state declarations that'll require employers to file any unemployment claims relating to partial or total company shutdowns for their staff rather than put that burden on the employee. For example, the Georgia Department of Labor issued an emergency rule that, if the employer fails to file the claim, the company will be required to reimburse the department of labor the full amount of the unemployment benefit paid to the employee. It's important to check with your state department of labor before taking any actions triggering unemployment filings by your team.

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