



COVID-19 & Leave Laws

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Paid Sick Time



What is the new federal sick time law?

FAQ from the Department of Labor here:
<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

New federal law (effective 4/2/20-12/31/20):

- Employer with fewer than 500 employees must provide up to 80 hours of paid sick leave for:
 - Personal illness, quarantine - paid at full wages up to \$511/day
 - Care for a sick family member, or care for a child due to school/daycare closure - paid at 2/3rds wages up to \$200/day
- Must be provided **in addition** to any other employer-provided leave; employer cannot require use of other PTO before emergency leave
- Cost to employer is reimbursable through refundable payroll tax credit
- Employers with <50 can apply for hardship exemption
- Health/emergency personnel can be exempted

Paid Sick Time



How is it
different than
the Oregon sick
time law we
already had?

Existing Oregon law:

- All employees can earn sick time at 1 hour for every 30 hours they work, up to at least 40 hours/year
 - Must be paid if employer has 10 or more employees in Oregon, or 6 or more in Portland (at usual wages)
- Can be used for: own illness or that of a family member, preventive care, other OFLA purposes, work or school closure due to public health emergency

Paid Family Leave



What is
the new
federal
family
leave law?

New federal law - “child care leave”:

- Employer with fewer than 500 employees must provide up to 12 weeks of paid family leave ONLY to:
 - Employees who cannot work or telework due to a child’s school or daycare closure due to the pandemic.
 - First 10 days may be unpaid; these days can be combined with paid sick days or other leave
 - After 10 days, employer must pay worker 2/3 of wages, up to \$200/day or \$10,000 total
- Cost to employer is reimbursable through refundable payroll tax credit
- Employers with <50 can apply for hardship exemption
- Job protection in companies with 25+ employees

FAQ from the Department of Labor here:

<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

Paid Family Leave



Didn't Oregon just
pass a law creating
a new paid family &
medical leave
insurance program?

Oregon's Paid Family & Medical Leave
Insurance Program will not begin until
January 2023.

Unpaid Family & Medical Leave



Are there other
leave laws that
might cover
employees who
need leave
during COVID?

Oregon Family Leave Act (OFLA):

- Up to 12 weeks unpaid job-protected leave for employees working with an employer with >25 employees
 - Employees must have worked 6 mos with employer
 - Employee must have worked 180 days with employer
- Can be used for own serious illness, serious illness of a family member, new child, “sick child leave”, **to care for child in public health emergency**
- Employer must maintain health insurance during leave

Unpaid Family & Medical Leave



Are there other
leave laws that
might cover
employees who
need leave
during COVID?

Federal Family & Medical Leave Act (FMLA):

- Up to 12 weeks unpaid job-protected leave for employees working for an employer with >50 employees (within 75 mile radius)
 - Employees must have worked 12 mos with employer
 - Employee must have worked 1250 hours in past year with employer
- Can be used for own serious illness, serious illness of family member, new child, military exigency
- Employer must maintain health insurance during leave

Getting reimbursed



How does an employer get reimbursed for the cost of providing new federally required leave?

- Retain appropriate documentation of leave taken in your records.
- Eligible employers who pay qualifying sick or child-care leave will be able to retain an amount of the payroll taxes equal to the amount of qualifying sick and child-care leave that they paid, rather than deposit them with the IRS.
- If there are not sufficient payroll taxes to cover the cost, employers will be able file a request for an accelerated payment from the IRS.
- The IRS expects to process these requests in two weeks or less. The details of this new, expedited procedure will be announced next week.

FAQ from IRS here:

<https://www.irs.gov/newsroom/covid-19-related-tax-credits-for-required-paid-leave-provided-by-small-and-midsize-businesses-faqs>

COVID-19 and Unemployment Insurance in Oregon

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What is Unemployment Insurance?

The UI System before COVID-19

- Funded by federal government, state government, and employers
- Run by the State of Oregon (the Oregon Employment Department)
- Provides partial income replacement while a person who recently lost a job is looking for work
- \$151 to \$648 per week, depending on work history
- Benefits available for up to 26 weeks
- Must have legal authorization to work, be looking for work, be able to work, and be available for work

A red speech bubble graphic with a tail pointing downwards and to the right. It contains the text "For Example...".

For Example...

Linda works 40 hours per week at a daycare center and earns \$15/hour, or \$600/week. She works at the daycare center for three years before she is laid off. Linda's weekly UI benefit amount would be approximately \$390/week, a little less than 2/3 of her wages.

How Has UI Changed in Response to COVID-19?

- **Creates a special UI system for people who are unemployment/partially unemployed because of COVID-19**
- **Applies to unemployment between 1/27/20 and 12/31/20**
- **Pays more money - \$600 on top of the usual amount (so \$751 to \$1248 per week)**
- **Available for longer – up to 39 weeks (3 month extension)**

How Has UI Changed in Response to COVID-19?

- Self-employed, independent contractors, and gig workers can qualify (\$676 to \$924 per week)
- People with insufficient work history, who already used up their 26 weeks of UI, or who are seeking part-time work can qualify
- Don't have to look for work if "employer attached" – furlough or other agreement to come back to work
- Can get UI even during times the person is unable to work because of COVID-19

Wait...is Linda making *more* money with post-COVID-19 UI?

- Yes! Working full-time, she made \$600/week. With emergency pandemic UI, she can receive \$990/week.
- **But remember**, she has to be unemployed/partially unemployed **because of COVID-19** and she has to look for (and accept!) work unless she has a **COVID-19 reason** that she cannot work.

Reductions vs. Layoffs

- **Pre-COVID-19 rule:** you can get partial UI benefits, but only if income goes below weekly benefit level
- **COVID-19 rule:** same as above, but you also get the additional \$600/week
- **Back to Linda.** Imagine that instead of being laid off, her hours are cut from 40 to 20 hours per week, so she now gets \$300 per week in wages. She would get:

\$390 (full UI benefit amount) - **\$300** (new wages) = **\$90**

plus \$600 = \$690/week

What Is Work Share?

- Employers can sign up for program that lets them use UI benefits to subsidize wages, as an alternative to layoffs
- Makes up difference between reduction with pro-rated UI benefit amount

Back to Linda, who is working 20/hours week and earning \$300/week in wages

- Recall that without Work Share, she would get \$690/week
- With Work Share, she would get \$795/week (in wages + UI)

How Do You Apply?

- Call **1-877-FILE-4-UI**
- Apply online at <https://www.oregon.gov/employ/unemployment/pages/default.aspx>
- You can get benefits by direct deposit or on a pay card
- If your application is denied or you disagree with the amount, you have 20 days to request a hearing
 - *If you're not sure, **appeal!**
- Weekly must call or use online system to certify eligibility and job search activity

Immigration Status & Public Charge

- You can only get UI benefits if you have **authorization to work in the U.S.**
- **Many immigrants** who are not citizens can qualify
- UI benefits are an “earned benefit” and **not a public charge benefit**, so there will be no negative effect on immigration status in the future

Overview of Resources Available for Small Business

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COVID Relief Packages

→ **Coronavirus Preparedness and Response Act - March 3, 2020**

Disaster grants

→ **Family First Act - March 18, 2020**

Paid Leave, UI, food assistance

→ **CARES Act - March 27, 2020**

Big and small loans, UI, + more

→ **Covid Relief IV - TBD**

Details unclear, but likely will focus on recovery



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Federal COVID-19 Small Business Relief

- **Covid-19 Loan and grant programs for small businesses**
 - ◆ Economic Injury Disaster Loans (EIDL) & Emergency Economic Injury Grants
 - ◆ Paycheck Protection Program
 - ◆ Debt relief for SBA borrowers
- **Reimbursable Paid Leave**
- **Unemployment Insurance**

More detailed information and links available:

smallbizcovid19.com/resources

sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources



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Economic Injury Disaster Loans (EIDL) & Emergency Economic Injury Grants

- Expands disaster loan program nationwide and to more kinds of businesses
- Loans up to \$2 million with 3.75% interest rate & deferment up to 4 years
- Substantially relaxed guidelines
- Includes grants up to \$10,000 for use on payroll, employee sick leave, rent & other business obligations
- Apply online at - **disasterloan.sba.gov**



Paycheck Protection Program

- 8 weeks cash assistance for wages, health benefits, some paid leave, mortgage interest, rent, utilities, interest on other debt
- Borrow up to 2.5 monthly payroll or \$10 million (whichever is less), 4% interest max
- Full Loan forgiveness if maintain payroll/salary; % if reduced.
- Provisions for rehiring without penalty
- Apply through SBA 7(a) approved lenders
- Business with EIDL COVID loan may also apply to PPP & refinance EIDL into PPP (but no double-dipping). Emergency EIDL grant subtracted from amount forgiven in PPP.



Debt Relief for SBA Borrowers

- For six months, SBA covers loan payments (principal, interest, and fees) for existing borrowers
- Includes Community Advantage, 504, Standard 7(a), microloans
- No debt relief for Paycheck Protection Program loans but businesses can apply to PPP while receiving SBA debt relief



Small Business Tax Provisions

- Employee Retention Credit for Employers Subject to Closure or Experiencing Economic Hardship
 - ◆ This provision would provide a refundable payroll tax credit for 50 percent of wages paid by eligible employers to certain employees during the COVID-19 crisis.
- Delay of Payment of Employer Payroll Taxes
 - ◆ Allow taxpayers to defer paying the employer portion of certain payroll taxes through the end of 2020

Putting all the Pieces Together

1. *Understand each option*
2. *Think about possible sequencing to stack options*

	Emergency Paid Leave	UI	EDLI grant	Payroll Protection
On staff	X		X	X
Reduced hours	X	(X)	X	
Furlough		X	X	
Laid off		X	X	
Rehire	X		X	X
Close		X		

What We're Working on for COVID IV Package



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American Enterprise
Institute estimates
the cost of replacing
lost revenue for
affected firms for
three months to be
\$1.2 trillion

The New York Times

Opinion

Why Is America Choosing Mass Unemployment?

European countries are paying to preserve jobs during the coronavirus crisis. Sadly for American workers, the United States is charting its own path.

By The Editorial Board

The editorial board is a group of opinion journalists whose views are informed by expertise, research, debate and certain longstanding values. It is separate from the newsroom.

More work to do: Covid IV

Covid III Fixes:

- PPP expansion
- EIDL expansion
- Increased & equitable access

Covid IV Additions:

- Need significantly more in grants for small business & overall to cover payroll, rent, utilities, and other expenses (include existing capital costs for owners that are adapting their businesses for driving recovery)
- Fund some of the small business stimulus with excess profit taxes on the largest corporations benefiting from small business closure, like Amazon
- No excess fees / no predatory small business lending
- Consumer protections include small business

Wage Security Fund

- Oregon program that pays employees for up to 60 days of work when an employer “ceases operations” and cannot make payroll
- Employees can get up to \$10,000 in unpaid wages
- May need to file within 60 days of the closure – don’t wait!
- Contact the Wage and Hour Division by email: whdscreener@boli.state.or.us or telephone: 971-673-0844 (Ore. Relay TTY: 711) to request a claim form



Join our child care advocacy effort

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