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International Union of Operating Engineers Local Union No. 94-94A, 94B



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To: Members of the International Union of Operating Engineers Local Union 94-94A-94B, AFL-CIO

From: International Union of Operating Engineers Local Union 94-94A-94B, AFL-CIO

Re: New York State Paid Family Leave Law

Date: October 12, 2017

Dear Members:

We wanted to alert you about the new, state-mandated family paid leave rights and benefits available under the New York State Paid Family Leave Law ("PFL"), which will take effect on January 1, 2018.

The PFL applies to all private employers that have employed at least one or more employees for 30 days in a calendar year. When fully implemented in 2021, employees will be eligible to receive up to 12 weeks of paid family leave each calendar year.

Employees are eligible for benefits under the PFL if they work 20 or more hours per week and have completed at least 26 consecutive weeks of employment (or if the work less than 20 hours per week at least 175 hours of employment) immediately prior to requesting such leave. Other paid time off (i.e., vacation, sick, personal, etc.) is considered employment for this purpose. Your employment prior to January 1, 2018 will be considered for purposes of meeting the eligibility requirements even though you cannot claim PFL benefits prior to that date.

Employees may use the PFL benefits for three purposes: (1) Care of a close relative with a serious health condition (including spouses, domestic partners, children, parents, parents-in-law, grandparents, and grandchildren); (2) To bond with the employee's newborn or newly-adopted child within 12 months after child birth, adoption or placement; or (3) For time off when a spouse, child, domestic partner, or parent of the employee is on active military duty or has been notified of a call or order to active duty. If the need for the leave is foreseeable, employees must provide at least 30-days' advance written notice to the employer when requesting PFL leave. Notice must be provided as soon as practicable in all unforeseeable cases. In addition, employees will need to provide the necessary documentation to substantiate the request.

We Will Never Forget

Employees may *not* take leave under the PFL for their own serious health condition and employees may *not* take this leave for a pregnancy. Other leave laws apply to those situations.

The PFL allows these family paid leave benefits to be fully funded through **employee** payroll deductions – not by employer contributions. The State of New York sets the amount of the required deductions each year. Currently, payroll deductions have been set at 0.126% of an employee’s weekly wage up to the New York State Average Weekly Wage (currently \$1,305.92). The law also provides that employers may begin to withhold employee contributions for this purpose starting on July 1, 2017 for coverage to begin on January 1, 2018. Employers who intend to commence withholdings should provide advance notice to employees to alert them about the new withholdings from their wages, and the withholdings must be disclosed on the employee’s wage statement. The PFL benefits will be obtained by filing a claim with your employer or with the employer’s insurance carrier. The Workers’ Compensation Board will handle any disputes over claims.

Effective January 1, 2018, eligible employees may take up to eight (8) weeks of paid leave equal to 50% of the lesser of: (i) their average weekly wages, or (ii) the New York State average weekly wage. Thereafter, the maximum amount of paid leave benefits will increase each year as follows:

<u>Effective Date</u>	<u>Weeks of Leave</u>	<u>Benefit Rate (Lesser of Employee’s Average Weekly Wage or New York State Average Weekly Wage)</u>
January 1, 2019	10 weeks	55%
January 1, 2020	10 weeks	60%
January 1, 2021	12 Weeks	67%

While an employee is receiving PFL benefits, the employer must maintain his or her existing health insurance coverage and, upon returning from a PFL leave, the employee must be reinstated to his or her prior position of, if not available, to a comparable position.

The PFL permits an employer to offer and an employee to elect to use otherwise available paid time off concurrently with the PFL leave in order to receive full salary during the PFL leave.

The foregoing provides a summary of the key components of the PFL based on the current guidance. It is anticipated that additional regulatory guidance will be issued in the coming months. In the meantime, the Union will continue to monitor this matter and provide updates as needed.
