

## **Paid Sick Leave – In conjunction with CA Law eff. July 1, 2015 – PG. 1**

(Healthy Workplaces, Healthy Families Act)

**\*POLICY ADOPTED JUNE 30, 2015**

Effective July 1, 2015, all employees other than those covered by a Collective Bargaining Agreement, who work in California for 30 or more days within one year from the commencement of employment, beginning on their 90th day of employment with the Company, may take up to three (3) paid sick days (24 hours) per year. Sick leave is to be used for the diagnosis, care, or treatment of an existing health condition of, or preventative care for, the employee or the employee's child (including a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis), parent (including a biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child), spouse, registered domestic partner, grandparent, grandchild or sibling. For an employee who is a victim of domestic violence, sexual assault, or stalking, sick leave may be used for the purposes described in Sections 230(c) and 230.1(a) of the California Labor Code.

Sick leave may not be used for vacation or personal time off. If the need for paid sick leave is reasonably foreseeable, the employee shall provide reasonable advance notification to his or her supervisor. If the need for paid sick leave is unforeseeable, the employee shall provide notice of the need for the leave as soon as practicable. Hansel's policy will allow employees to use sick leave in a minimum increment of one (1) hour. The sick leave year runs from your date of hire to your anniversary, or from anniversary to anniversary.

The rate of pay shall be the employee's hourly wage. The method for calculating the appropriate wage for employees who receive different hourly rates when the accrued sick leave is taken (e.g. flat rate techs) is currently under review by state legislators. For monthly commission salespeople, F&I Managers, service advisors, sales on call drivers, for example, we will be required to pay at a rate by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment. Note that sick pay may be legally paid on the following regular pay period. Managers and salaried personnel who are exempt from overtime requirements as administrative, executive, or professional employees under a wage order of the Industrial Welfare Commission will continue to receive their regular compensation during their time off based on 40 hour work weeks or pay plans, and their sick leave accrual will be offset in an amount corresponding to the amount of time taken off.

Unused sick leave will be forfeited upon termination of employment. However, if an employee separates from the Company and is rehired by the Company within one year from the date of separation, previously accrued and unused paid sick days will be reinstated and available for use by the employee upon rehire. Sick leave does not count as "hours worked" for purposes of calculating an employee's entitlement to overtime during the week in which the absence occurs. Any employee attempting to obtain paid sick leave for a non-medical absence may be subject to discipline, up to and including termination. Discipline or termination for excessive absenteeism does not include paid sick leave used pursuant to this policy.

## HANSEL AUTO GROUP SICK PAY POLICY FURTHER DEFINED – PG. 2

### **Commission Salespeople, F&I Managers:**

#### **Part-time Employees (Regularly working under 40 hours per week):**

#### **Part-time includes all on-call Drivers:**

Sick pay will be based on the statutory mandated accrual rate of one hour of sick pay for every 30 hours worked. Eligible employees will begin to accrue on July 1, 2015. If hired after July 1, an eligible employee will begin to accrue on the employee's first day of work.

The use of sick leave will be limited to 24 hours or 3 days in each year of employment, regardless of how much paid sick time the employee has accrued. The accrual will be capped at 48 hours or 6 days per year. Unused sick leave is carried over from year to year, subject to the cap.

### **Full-time 40 hour employees other than Commission Salespeople and F&I Managers hired prior to July 1, 2015:**

For these employees, Hansel already has an existing paid sick pay policy in place. With the exception of commission salespeople and F&I Managers, employees who regularly worked 40 hours per week accrued sick time on a pay period basis instead of hours worked. Sick pay was calculated at the rate of one-half (1/2) day per month for use after the 90 day waiting period had been completed.

For employees who currently have a sick bank accrual, the time will continue to be fully available to be used for all the reasons shown in the preceding. However, as sick time is utilized, the old sick bank accrual will be depleted and no longer replenished. Any unused portion of the old sick bank will carry forward from year to year if not used.

To bring the company into compliance with the new CA law, beginning July 1, 2015, a new paid sick leave code has been developed. Beginning July 1, employees will accrue at the rate of one hour of sick pay for every 30 hours worked, per the statute. (Exempt Managers as referenced on pg. 1 are deemed to work 40 hours per work week for the purpose of this law.) If hired after July 1, an eligible employee will begin to accrue on the employee's first day of work.

The use of this new paid sick leave code will be limited to 24 hours or 3 days in each year of employment. The accrual will be capped at 48 hours or 6 days per year. Unused sick leave is carried over from year to year, subject to the cap.

## HANSEL AUTO GROUP SICK PAY POLICY FURTHER DEFINED – PG. 3

### **For All Employees:**

You will need to meet the 90 days of employment requirement before taking any leave. It is important that employees accurately record all hours worked. We are working with ADP through this transition in order to comply with the requirements of accruals, tracking and the appropriate pay methodology. We expect that once implementation is complete, requests to use sick time hours based on the guidelines previously stated, will be able to be made through ADP workforce.

You may be eligible for State Disability Insurance wage replacement pay (SDI) beginning on the 8<sup>th</sup> consecutive day of disability (incl. weekends) that you are unable to work. Employees who are eligible for State Disability have always been expected to file for SDI after the 8<sup>th</sup> consecutive day of illness (incl. weekends.) Forms are available from Benefits and Compliance, on-line, your provider, or the State Disability Office.

Related information on Family Care and Medical Leave continue to be shown separately in our Policies, as well as Cal Chamber posters may be referenced in each dealership. Benefits and Compliance can answer questions on our policies and any leave time at 44365 (internally) or (707) 769-2365.

**\*NOTE: This policy is subject to revision based on any changes made to CA law.**

The Sick Paid Leave Law and Hansel's Policy supersedes any language referencing sick time in individual pay plans.

230. (c) An employer shall not discharge or in any manner discriminate or retaliate against an employee who is a victim of domestic violence, sexual assault, or stalking for taking time off from work to obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of the victim or his or her child.

(d) (1) As a condition of taking time off for a purpose set forth in subdivision (c), the employee shall give the employer reasonable advance notice of the employee's intention to take time off, unless the advance notice is not feasible.

(2) When an unscheduled absence occurs, the employer shall not take any action against the employee if the employee, within a reasonable time after the absence, provides a certification to the employer. Certification shall be sufficient in the form of any of the following:

(A) A police report indicating that the employee was a victim of domestic violence, sexual assault, or stalking.

(B) A court order protecting or separating the employee from the perpetrator of an act of domestic violence, sexual assault, or stalking, or other evidence from the court or prosecuting attorney that the employee has appeared in court.

(C) Documentation from a licensed medical professional, domestic violence counselor, as defined in Section 1037.1 of the Evidence Code, a sexual assault counselor, as defined in Section 1035.2 of the Evidence Code, licensed health care provider, or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting in victimization from an act of domestic violence, sexual assault, or stalking.

(3) To the extent allowed by law and consistent with subparagraph (D) of paragraph (7) of subdivision (f), the employer shall maintain the confidentiality of any employee requesting leave under subdivision (c).

(e) An employer shall not discharge or in any manner discriminate or retaliate against an employee because of the employee's status as a victim of domestic violence, sexual assault, or stalking, if the victim provides notice to the employer of the status or the employer has actual knowledge of the status.

(f) (1) An employer shall provide reasonable accommodations for a victim of domestic violence, sexual assault, or stalking who requests an accommodation for the safety of the victim while at work.

(2) For purposes of this subdivision, reasonable accommodations may include the implementation of safety measures, including a transfer, reassignment, modified schedule, changed work telephone, changed work station, installed lock, assistance in documenting domestic violence, sexual assault, or stalking that occurs in the workplace, an implemented safety procedure, or another adjustment to a job structure, workplace facility, or work requirement in response to domestic violence, sexual assault, or stalking, or referral to a victim assistance organization.

(3) An employer is not required to provide a reasonable accommodation to an employee who has not disclosed his or her status as a victim of domestic violence, sexual assault, or stalking.

(4) The employer shall engage in a timely, good faith, and interactive process with the employee to determine effective reasonable accommodations.

(5) In determining whether the accommodation is reasonable, the employer shall consider an exigent circumstance or danger facing the employee.

(6) This subdivision does not require the employer to undertake an action that constitutes an undue hardship on the employer's business operations, as defined by Section 12926 of the Government Code. For the purposes of this subdivision, an undue hardship also includes an action that would violate an employer's duty to furnish and maintain a place of employment that is safe and healthful for all employees as required by Section 6400 of the Labor Code.

(7) (A) Upon the request of an employer, an employee requesting a reasonable accommodation pursuant to this subdivision shall provide the employer a written statement signed by the employee or an individual acting on the employee's behalf, certifying that the accommodation is for a purpose authorized under this subdivision.

(B) The employer may also request certification from an employee requesting an accommodation pursuant to this subdivision demonstrating the employee's status as a victim of domestic violence, sexual assault, or stalking. Certification shall be sufficient in the form of any of the categories described in paragraph (2) of subdivision (d).

(C) An employer who requests certification pursuant to subparagraph (B) may request recertification of an employee's status as a victim of domestic violence, sexual assault, or stalking every six months after the date of the previous certification.

(D) Any verbal or written statement, police or court record, or other documentation provided to an employer identifying an employee as a victim of domestic violence, sexual assault, or stalking shall be maintained as confidential by the employer and shall not be disclosed by the employer except as required by federal or state law or as necessary to protect the employee's safety in the workplace. The employee shall be given notice before any authorized disclosure.

(E) (i) If circumstances change and an employee needs a new accommodation, the employee shall request a new accommodation from the employer.

(ii) Upon receiving the request, the employer shall engage in a timely, good faith, and interactive process with the employee to determine effective reasonable accommodations.

(F) If an employee no longer needs an accommodation, the employee shall notify the employer that the accommodation is no longer needed.

(8) An employer shall not retaliate against a victim of domestic violence, sexual assault, or stalking for requesting a reasonable accommodation, regardless of whether the request was granted.

(g) (1) An employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated or retaliated against in the terms and conditions of employment by his or her employer because the employee has taken time off for a purpose set forth in subdivision (a) or (b) shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer.

(2) An employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated or retaliated against in the terms and conditions of employment by his or her employer for reasons prohibited in subdivision (c) or (e), or because the employee has requested or received a reasonable accommodation as set forth in subdivision (f), shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer, as well as appropriate equitable relief.

(i) An employee may use vacation, personal leave, or compensatory time off that is otherwise available to the employee under the

applicable terms of employment, unless otherwise provided by a collective bargaining agreement, for time taken off for a purpose specified in subdivision (a), (b), or (c). The entitlement of any employee under this section shall not be diminished by any collective bargaining agreement term or condition.

(j) For purposes of this section:

(1) "Domestic violence" means any of the types of abuse set forth in Section 6211 of the Family Code, as amended.

(2) "Sexual assault" means any of the crimes set forth in Section 261, 261.5, 262, 265, 266, 266a, 266b, 266c, 266g, 266j, 267, 269, 273.4, 285, 286, 288, 288a, 288.5, 289, or 311.4 of the Penal Code, as amended.

(3) "Stalking" means a crime set forth in Section 646.9 of the Penal Code or Section 1708.7 of the Civil Code.

230.1. (a) In addition to the requirements and prohibitions imposed on employees pursuant to Section 230, an employer with 25 or more employees shall not discharge or in any manner discriminate or retaliate against an employee who is a victim of domestic violence, sexual assault, or stalking for taking time off from work to attend to any of the following:

(1) To seek medical attention for injuries caused by domestic violence, sexual assault, or stalking.

(2) To obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault, or stalking.

(3) To obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking.

(4) To participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.

(b) (1) As a condition of taking time off for a purpose set forth in subdivision (a), the employee shall give the employer reasonable advance notice of the employee's intention to take time off, unless the advance notice is not feasible.

(2) When an unscheduled absence occurs, the employer shall not take any action against the employee if the employee, within a reasonable time after the absence, provides a certification to the employer. Certification shall be sufficient in the form of any of the categories described in paragraph (2) of subdivision (d) of Section 230.

(3) To the extent allowed by law and consistent with subparagraph (D) of paragraph (7) of subdivision (f) of Section 230, employers shall maintain the confidentiality of any employee requesting leave under subdivision (a).

(e) An employee may use vacation, personal leave, or compensatory time off that is otherwise available to the employee under the applicable terms of employment, unless otherwise provided by a collective bargaining agreement, for time taken off for a purpose specified in subdivision (a). The entitlement of any employee under this section shall not be diminished by any collective bargaining agreement term or condition.

(f) This section does not create a right for an employee to take unpaid leave that exceeds the unpaid leave time allowed under, or is in addition to the unpaid leave time permitted by, the federal Family and Medical Leave Act of 1993 (29 U.S.C. Sec. 2601 et seq.).

(g) For purposes of this section:

(1) "Domestic violence" means any of the types of abuse set forth in Section 6211 of the Family Code, as amended.

(2) "Sexual assault" means any of the crimes set forth in Section

261, 261.5, 262, 265, 266, 266a, 266b, 266c, 266g, 266j, 267, 269, 273.4, 285, 286, 288, 288a, 288.5, 289, or 311.4 of the Penal Code, as amended.

(3) "Stalking" means a crime set forth in Section 646.9 of the Penal Code or Section 1708.7 of the Civil Code.

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### **HANSEL AUTO GROUP POLICY ADDENDUM DECEMBER 29, 2016**

The attached policy remains in effect for pay periods beginning in 2017, with the following modifications.

Active non-union full-time employees and employees who regularly work 30 or more hours per week who have reached 90 days of service with the company will have 3 days of sick time (24 hours) available at the beginning of the calendar year (or when they reach 90 days service) under a front-loading process through ADP Workforce. This change was announced in Benefit meetings in November and December, 2016. A new sick leave code will be used for the front-loaded sick time.

Very part-time and part-time variable employees will continue to accrue 1 hour for every 30 hours worked, under the same terms as described in the att.

All such employees may use 3 days of sick time (24 hours) in each calendar year, for all time accrued since July 1, 2015.

If you have any questions re: Hansel's policy and the CA Paid Sick Leave Law, feel free to ask Benefits and Compliance as shown on Pg. 3 of the att.