

Synopsis of the small business exemption for employers with fewer than 50 employees:

- The small business exemption can only be used to deny leave (emergency paid sick leave and/or expanded FMLA) when the reason for leave is that the employee has a child at home whose daycare or school is closed. It does not apply to situations where the employee is seeking emergency paid sick leave because the employer is dealing with COVID-19 or the employee is caring for someone dealing with COVID-19.
- To be entitled to claim the exemption, the employer must show one of the following:
- The provision of paid sick leave or expanded family and medical leave would result in the small business's expenses and financial obligations exceeding available business revenues and cause the small business to cease operating at a minimal capacity;
- The absence of the employee or employees requesting paid sick leave or expanded family and medical leave would entail a substantial risk to the financial health or operational capabilities of the small business because of their specialized skills, knowledge of the business, or responsibilities; or
- There are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services provided by the employee or employees requesting paid sick leave or expanded family and medical leave, and these labor or services are needed for the small business to operate at a minimal capacity.

For further information, always rely on the updated website of:

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

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