



New York City Mandatory Sick Leave Act (updated 3/20/14)

The Earned Sick Leave Act will generally require private employers who have employees working in New York City for more than 80 hours in a calendar year to provide up to 40 hours of sick leave. The number of employees the business has over the course of a year will determine whether the leave is unpaid or paid. The Act will go into effect on April 1, 2014.

Note that an employer who already has a paid leave policy that provides for five days off with pay (paid time off, paid vacation days, and/or paid personal days) and allows the employees to use the time for the purposes of and under the conditions of the act, are **not** required to provide additional paid or unpaid sick leave. Similarly, an employer who would only be required to provide unpaid sick leave is **not** required to do so if there is a paid or unpaid leave policy in place that is at least as generous as the act.

Scheduled Effective Date: April 1, 2014

- Businesses with **5 or more employees**: employees begin to accrue **paid** sick leave
- Businesses with **4 or fewer employees**: employees begin to accrue **unpaid** sick leave
- **Household employers**: domestic employees who have been employed for one full year by the same employer will be entitled to **two days paid sick leave** per calendar year, in addition to the three paid days off from work provided for by the Domestic Worker's Bill of Rights

The rules regarding the accrual and use of sick leave are quite complex:

Accrual of Sick Leave

- Employers generally must provide a **minimum of one hour of sick leave for every 30 hours worked by an employee**, with a maximum requirement of 40 hours per year.
- Employees may begin using accrued sick time on the 120th calendar day after the law becomes effective (July 30, 2014) or the 120th calendar day following commencement of employment, whichever is later.
- Unused sick time will generally be carried over to the following calendar year. However, an employer is not required to:

Allow the use of more than 40 hours of sick time in a calendar year;

OR

Carry over unused paid sick time if the employee is paid for any unused sick time at the end of the calendar year in which such time is accrued and the employer provides the employee with an amount of paid sick time that meets or exceeds the requirements under the law for the following calendar year on the first day of the year.

Employees are not entitled to compensation for accrued unused sick time upon termination, resignation, retirement, or other separation from employment.

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Use of Sick Leave

- An eligible employee may use sick time for the following qualifying absences:
 - The employee's mental or physical illness, injury or health condition or need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition, or need for preventive medical care
 - Care of a family member who needs medical diagnosis, care or treatment of a mental or physical illness, injury or health condition or who needs preventive medical care
- Employers may set a reasonable minimum amount of sick leave to be used, provided that the minimum is not more than four hours.
- Employers may require reasonable notice of the need for leave:
 - Up to seven days' notice when the need for leave is foreseeable, such as for a doctor appointment
 - As soon as possible when need for leave is not foreseeable
 - Employers may not require the disclosure of details relating to an employee's or his or her family member's medical condition as a condition of providing sick time under the law. However, employers may request documentation from a licensed health care provider for absences longer than three consecutive work days.

Notice and Enforcement

- Notice of sick leave benefits must be provided to all current employees by May 1, 2014 and new employees when hired.
- Employers must retain records for 3 years to document each employee's hours worked, sick leave accrued, and sick leave taken.
- Employees claiming that a violation of the Act occurred can file a complaint with the NYC Department of Consumer Affairs, which is responsible for enforcement. There are monetary penalties for violations of the Act.