

New York State's Paid Sick Leave Law

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Working to create economic growth, good jobs and strong communities across New York State.



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Time off to Vote

S.7505-B/A.9505-B; Part AAA – Effective Immediately

- § 3-110. Time allowed employees to vote. 1. **[A] If a registered voter does not have sufficient time outside of his or her scheduled working hours, within which to vote on any day at which he or she may vote, at any election, he or she may, without loss of pay for up to [~~three~~] two hours, take off so much working time as will, when added to his or her voting time outside his or her working hours, enable him or her to vote [at any election].**
- 2. **[~~The employee~~] If an employee has four consecutive hours either between the opening of the polls and the beginning of his or her working shift, or between the end of his or her working shift and the closing of the polls, he or she shall be deemed to have sufficient time outside his or her working hours within which to vote. If he or she has less than four consecutive hours he or she may take off so much working time as will, when added to his or her voting time outside his or her working hours enable him or her to vote, but not more than two hours of which shall be without loss of pay, provided that he or she shall be allowed time off for voting only at the beginning or end of his or her working shift, as the employer may designate, unless otherwise mutually agreed.**



New York State Paid Sick Leave

NYS Labor Law 196-b

- Effective September 30, 2020; for use on 1/1/21
- Notification Requirements (§195.5) - *notify his employees in writing or by publicly posting the employer's policy on sick leave, vacation, personal leave, holidays and hours*
- Employees are to accrue sick leave at a rate of 1 hour for every 30 hours worked (to the maximum)
- Accrual begins on date of hire – no waiting period



Paid Sick Leave – How Much?

| Private Employer Size | PSL Required |
|-------------------------------|-------------------------------------|
| 4 or fewer (<\$1M Net Income) | 40 hours of <u>UNPAID</u> sick time |
| 4 or fewer (>\$1M Net Income) | 40 hours of paid sick time |
| 5-99 employees | 40 hours of paid sick time |
| 100 or more employees | 56 hours of paid sick time |

- Excludes federal, state and local government employees
- Covers employees physically located in NYS
- Employer size/Net Income to be determined by regulation

Front Load or Accrual?

- Full time employees – calendar year or “regular and consecutive 12-month period as determined by the employer”
 - Calendar year
 - Anniversary date
 - “Not subject to revocation or reduction”
- Part Time employees – may front load on anticipated 2021 hours worked
 - Monitor accrual
 - “Not subject to revocation or reduction”
- “Hours worked”- on-call, travel time, etc.

Paid Sick Leave – Definitions

- **Eligible Uses** - Care for the employee's own mental or physical illness, injury, or health condition or of the employee's "family member;" for diagnosis or care of medical issues; or for absences related to domestic violence, sexual offenses, stalking and/or human trafficking
- **"Family member"** is defined as an employee's child, spouse, domestic partner, parent, sibling, grandchild or grandparent, and the child or parent of an employee's spouse or domestic partner. "Parent" shall mean a biological, foster, step- or adoptive parent, or a legal guardian of an employee, or a person who stood in loco parentis when the employee was a minor child. "Child" shall mean a biological, adopted or foster child, a legal ward, or a child of an employee standing in loco parentis.

Paid Sick Leave – The Basics

- Employers can set reasonable minimum increments of use, not to exceed 4 hours
- Unused sick leave shall be carried over into the following calendar year. Employers can limit the use of sick leave to 40 hours (employers of less than 100) or 56 hours per year (employers of 100 or more.)
- Employer may determine the ‘regular and consecutive 12-month’ accrual period
- Employers are prohibited from discriminating against or taking any retaliatory action against any employee exercising their rights under this law
- Job Protected Leave - Upon return to work following any sick leave, an employee shall be restored to the position held by such employee prior to any sick leave taken with the same pay and other terms and conditions of employment.



Paid Sick Leave – The Basics

- Employers with leave policies that provide the amount of sick time required under this statute are not required to provide additional sick leave as long as the policy satisfies the accrual, carryover, and use requirements and may be used in the same way as proscribed in the statute
- Upon request, employers are required to provide employees with a summary of their sick leave accrued and used in the current and previous calendar year
- No payout required at separation – Seasonal workers maintain leave throughout breaks. Should be included in your policy/handbook
- The bill preempts all municipal sick leave ordinances other than New York City – Note...NYC amendments effective 9/30/20
- Employers must maintain six years of records on sick leave provided to all employees



Other Than Full-Time Employees

- All 'employees' are covered. No exception for:
 - Part-time
 - Per-diem
 - Temporary
 - Seasonal
 - Students

But I Have a PTO Plan!?

- Include accrual, carryover and use provisions
- Use definitions and terms found in the statute including explicitly listing uses of leave found in the statute
- Policy should explicitly prohibit discrimination, harassment and retaliation for employees exercising rights under the statute
- Coordinate with other leave policies (COVID leave, PFL, FMLA, collective bargaining agreements, etc.)

Other Considerations

- “Regular rate” of pay – “normal pay”
- Corrective action due to absenteeism
- Attendance bonus
- Documentation – Record accrual and use in current and previous calendar year and provided to employee upon request within 3 calendar days
- Employee notice before use – “prior to using the accrued sick leave”
- Medical documentation from employee – subject to regulation

Collective Bargaining Agreements

- Nothing in this section shall be construed to: a. prohibit a collective bargaining agreement entered into, on or after 9/30/20, in lieu of the leave provided for in this section, providing a comparable benefit for the employees covered by such agreement in the form of paid days off; such paid days off shall be in the form of leave, compensation, other employee benefits, or some combination thereof; or
- impede, infringe, or diminish the ability of a certified collective bargaining agent to negotiate the terms and conditions of sick leave different from the provisions of this section.
- Provided, however, that in the case of either paragraph a or b of this subdivision, the agreement must specifically acknowledge the provisions of this section.



Summary

- More to come
 - Updated FAQ's
 - Regulations
- “Not meant to be punitive”
- “Read the statute”

<http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO:>

<https://www.ny.gov/programs/new-york-paid-sick-leave>

https://www.ny.gov/sites/ny.gov/files/atoms/files/PSL_FAQ_PaidSickLeaveFAQ.pdf



Next Webinar

Politics in the Workplace - 2020

We will spend the hour covering a variety of issues that have come up since our last meeting including: political speech in the workplace, time off to vote, updates on state and federal COVID leave programs, and more

Thursday, October 22, 2020

1:00 pm. – 2:00 pm

HRCI certification pending



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