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PAID SICK LEAVE: WHAT EMPLOYERS NEED TO KNOW

Certain employers must comply with New York City's Earned Sick Time Act (Paid Sick Leave Law) starting April 1, 2014. Under the law, covered employees have the right to use sick leave for the care and treatment of themselves or a family member.

The Department of Consumer Affairs (DCA) prepared this sheet to provide guidance to employers about their responsibilities under the law. DCA will update this sheet as appropriate. Please note the date at the bottom of the sheet. To read the law and Frequently Asked Questions about the law, go to nyc.gov/PaidSickLeave.

EMPLOYERS WHO MUST PROVIDE SICK LEAVE

Number of Employees	Amount of Sick Leave per Calendar Year	Paid or Unpaid Sick Leave	Rate of Pay
5 or more <i>Must work 80+ hours a calendar year*</i>	Up to 40 hours	Paid	Regular hourly rate but no less than the minimum wage
1-4 <i>Must work 80+ hours a calendar year</i>	Up to 40 hours	Unpaid	Not Applicable
1 or more domestic workers <i>Must work 80+ hours per calendar year and have been employed by the same employer at least 1 year</i>	2 days	Paid	Regular hourly rate but no less than the minimum wage

*Note: "Calendar Year" means any regular and consecutive 12-month period of time determined by an employer.

Note: If you have an existing policy allowing employees to use sick leave, your policy must meet or exceed the requirements of the law.

EMPLOYERS WHOSE EMPLOYEES ARE NOT COVERED BY THE LAW

The law does not cover employees who work 80 hours or less a calendar year; students in federal work study programs; employees whose work is compensated by qualified scholarship programs; employees of government agencies; physical therapists, occupational therapists, speech language pathologists, audiologists who are licensed by the New York State Department of Education if they call in for work assignments at will, determine their own work schedule, have the ability to reject or accept any assignment referred to them, and are paid an average hourly wage, which is at least four times the federal minimum wage; independent contractors who do not meet the definition of an employee under New York State Labor Law; participants in Work Experience Programs; certain employees subject to a collective bargaining agreement. In the case of collective bargaining agreements, employees are not covered by the law if the agreement expressly waives the law's provisions and provides comparable benefits. However, for employees in the construction or grocery industry covered by a collective bargaining agreement, the law does not apply if the agreement expressly waives the law's provisions. For guidance on collective bargaining agreements, read Frequently Asked Questions at nyc.gov/PaidSickLeave.

NOTICE OF EMPLOYEE RIGHTS

Employee	Date Written Notice Due to Employee
New <i>First employed on or after April 1, 2014</i>	First day of employment
Existing <i>Already working for employer before April 1, 2014</i>	May 1, 2014

You must provide each employee with written notice of the employee's right to sick leave, including accrual and use of sick leave, the right to file a complaint, and the right to be free from retaliation. The notice must state your calendar year, including Start Date and End Date. Employees have a right to the notice in English and, if available on the DCA website, their primary language. The notice is available at nyc.gov/PaidSickLeave.

SICK LEAVE ACCRUAL AND USE – IMPORTANT DATES

	Rate of Accrual	Date Accrual Begins	Date Sick Leave Available for Use
Employee	1 hour for every 30 hours worked	April 1, 2014 (Existing employee)	July 30, 2014 (Existing employee)
		First day of employment (New employee)	120 days after first day of employment (New employee)
Domestic Worker	2 days after 1 year on the job	DCA will provide guidance at nyc.gov/PaidSickLeave	DCA will provide guidance at nyc.gov/PaidSickLeave

Exception: If an employee is covered by a collective bargaining agreement that is in effect on April 1, 2014, the employee begins to accrue sick leave under City law beginning on the date that the agreement ends.

RECORD KEEPING

You must keep and maintain records documenting compliance with the law for at least three years. You must keep any health related information confidential unless the employee permits you to disclose it or disclosure is required by law. You must make the records available to DCA upon notice at an agreed upon time of day.

ADVANCE NOTICE

If the need is foreseeable, you can require up to seven days advance notice of an employee's intention to use sick leave. If the need is unforeseeable, you may require an employee to give notice as soon as practicable (reasonable).

DOCUMENTATION

You can require documentation from a licensed health care provider if an employee uses more than three consecutive workdays as sick leave. The Paid Sick Leave Law prohibits you from requiring the health care provider to specify the medical reason for sick leave. Disclosure may be required by other laws. You may require an employee to provide written verification that the employee used sick leave for sick leave purposes.

UNUSED SICK LEAVE

An employee can carry over up to 40 hours of unused sick leave to the next calendar year. However, you are only required to let an employee use up to 40 hours of sick leave per calendar year. You can choose—but are not required—to pay an employee for unused sick leave at the end of the calendar year. Employees cannot carry over sick leave if you pay them for the unused sick leave AND you provide the employee with an amount of paid sick leave that meets or exceeds the requirements of the law for the new calendar year on the first day of the new calendar year.

RETALIATION

You cannot retaliate against employees for requesting or using sick leave. Retaliation includes any threat, discipline, discharge, demotion, suspension, or reduction in an employee's hours, or any other adverse employment action against an employee who exercises or attempts to exercise any right guaranteed under the law.

COMPLAINTS

If an employee files a complaint with DCA, DCA will contact you by mail for written response. You must respond to DCA within 30 days.

NOTICE OF VIOLATION

If you receive a notice of violation, you will have the opportunity to settle the violation without a hearing or you can appear before an impartial judge at a City Tribunal.

Questions? Want to attend a training to understand the law?

Contact DCA in the following ways:

- Online Live Chat, available at nyc.gov/BusinessToolbox
- Email PaidSickLeave@dca.nyc.gov
- Call 311 (212-NEW-YORK outside NYC) and ask for information about Paid Sick Leave