

NEW YORK CITY EARNED SAFE AND SICK TIME ACT (PAID SAFE AND SICK TIME LEAVE LAW)

Eligibility

Provide up to 40 hours of paid safe/sick time per calendar year (January 1 to December 31) for all employees who are hired to work more than 80 hours in a calendar year in New York City. Paid safe/sick leave is accrued at a rate of one hour for every 30 hours worked.

The time is required to be **paid** by employers with five or more employees who are employed for hire more than 80 hours a calendar year.

Retaliation

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

Note: Any type of paid leave—paid time off, vacation, personal days, etc.—will count for purposes of complying with the law as long as it can be used for sick leave purposes.

The law will not cover independent contractors, work-study students, government employees, and certain hourly occupational, speech, and physical therapists.



EFFECTIVE: 4/1/2014

Amended: 5/5/2018

Uses for Paid Safe/Sick Leave Time

Any accrued paid sick leave may be used for the following reasons:

- The employee's mental or physical illness, injury, or health condition;
- The employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition;
- The employee's need for preventive medical care;
- Care of a family member who needs medical diagnosis, care, or treatment or an illness, injury, or health condition, or who needs preventive medical care
- Closure of employee's place of business due to a public health emergency (as declared by the Commissioner of the New York City Department of Health and Mental Hygiene or the Mayor)
- The employee's need to care for a child whose school or child care provider is closed due to a public health emergency.

Leave can be used in increments of one hour.

For an absence of more than three consecutive work days for sick time, an employer may require reasonable documentation that the use of sick time was authorized. Documentation signed by a licensed health care provider indicating the need for the amount of sick time taken shall be considered reasonable documentation and an employer shall not require that such documentation specify the nature of the employee's or the employee's family member's injury, illness or condition, except as required by law.

An employer shall not require an employee, as a condition of taking safe/sick time, to search for or find a replacement worker to cover the hours during which such employee is utilizing time.

Uses for Paid Safe/Sick Leave Time

An employee shall be entitled to use safe time for absence from work due to any of the following reasons when the employee or a family member has been the victim of a family offense matter, sexual offense, stalking, or human trafficking:

- To obtain services from a domestic violence shelter, rape crisis center, or other shelter or services program;
- To participate in safety training, temporarily or permanently relocate, or take other actions to increase the safety of the employee or family member;
- To meet with a civil attorney or other social service provider to obtain information and advice on, and prepare for or participate in, any criminal or civil proceeding, including but not limited to matters related to a family offense matter, sexual offense, stalking, human trafficking, custody, visitation, matrimonial issues, orders of protection, immigration, housing, discrimination in employment, housing or consumer credit;
- To file a complaint or domestic incident report with law enforcement;
- To meet with a district attorney's office.
- To enroll children in a new school; or
- To take other actions necessary to maintain, improve, or restore the physical, psychological, or economic health or safety of the employee or family member or to protect those who associate or work with the employee.

For an absence of more than three consecutive work days for safe time, an employer may require reasonable documentation that the use of safe time was authorized. Documentation signed by an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional service provider from whom the employee or that employee's family member has sought assistance in addressing family offense matters, sex offenses, stalking, or human trafficking and their effects; a police or court record; or a notarized letter from the employee explaining the need for such time shall be considered reasonable documentation and an employer shall not require that such documentation specify the details of the family offense matter, sexual offense, stalking, or human trafficking.

Employee Notice Requirements

- If the need is foreseeable, the company will require up to seven days advance notice of an employee's intention to use sick or safe leave.
- If the need is unforeseeable, the company will require an employee to give advance notice as soon as practicable.

Note: The company (or customer) must keep any health related information confidential unless the employee permits the employer/customer to disclose it or disclosure is required by law.

An employer may require an employee to provide written verification that the employee used sick leave for sick leave purposes.

Employer can use disciplinary action, up to and including termination, against a worker who uses safe/sick time provided for purposes other than those described in this ordinance.

Paid Sick Leave Accrual and Use – Important Dates

Rate of Accrual	Date Accrual Begins	Date Sick Leave Available for Use
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)

- Employees are required to immediately begin accruing sick leave, but cannot take accrued leave until after 120 days of employment with that employer. In addition, an employee who has not worked 80 hours inside the city limits in a calendar year is not eligible to use accrued sick leave.
- Only the hours that an employee works in New York City count toward the 80 hours, and the sick leave can only be used when the employee is working in New York City.
- If an exempt employee works 40 hours or more in a week, paid sick leave still accrues based on a 40-hour workweek but not beyond the 40 hours. If an exempt employee works less than 40 hours in a week, sick leave accrues based on the employee’s normal workweek.
- For employees who are not exempt from the overtime provisions of New York State’s Minimum Wage Law or other New York State law, paid sick leave accrues during all hours worked, including overtime hours worked.
- When an employee uses paid sick leave, an employer must pay the employee the employee’s regular hourly rate at the time the sick leave is taken. Employees cannot be paid *less* than the *full* minimum wage provided under the minimum wage law.

Family Members:

The law recognizes the following as family members:

- Child (biological, adopted, or foster children, legal wards, or the child of a worker standing in loco parentis to the child)
- Grandchild
- Spouse (including same sex)
- Domestic partner (registered)
- Parent
- Grandparent
- Child or parent of an employee’s spouse or domestic partner
- Sibling (including a half, adopted, or step sibling)
- Any other individual related by blood to the employee; and any other individual whose close association with the employee is the equivalent of a family relationship

Unused Sick Leave

An employee can carry over up to 40 hours of unused sick leave to the next calendar year. The employer is only required to let an employee use up to 40 hours of sick leave per calendar year.

No Pay Out Upon Termination

- There will be no pay out of accrued but unused sick leave upon termination, resignation, retirement, or other separation from employment.

Rehires:

- If an employee is rehired within six months, the employer must reinstate previously accrued sick leave.
- The employee may begin using unused sick leave and sick leave as it accrues when the employee is reinstated, assuming that the employee reached 120 days after commencement of employment to begin using sick leave.

In contrast, if an employee had not reached 120 days after commencing employment before separating from employment, an employee must be credited his or her previous calendar days toward the 120 day waiting period if the employee is reinstated within 6 months of separation. After reaching the 120 day waiting period, the employee may begin using sick leave.

If the employee's break in employment is more than six months, the law does not require the employer to reinstate unused sick leave. The employee would have a zero balance of accrued sick leave on the first day of reemployment and would not be eligible to use sick leave for 120 days.

Note: In a situation where an employee returns after an absence of more than six months but within the same calendar year of working for the employer previously, then all work for that employer within the calendar year must be included in determining whether the employee has worked more than 80 hours and is eligible for sick leave under the law.

New York City Zip Codes Included – In SmartSearch, if the employee is working in New York City, mark Personnel subarea as “New York City.” If they live in New York City but do not work in New York City, mark Personnel subarea as “New York.” Zip codes include all of the following Boroughs: Bronx, Brooklyn, Manhattan, Queens, and Staten Island

NOTICE OF EMPLOYEE RIGHTS

Under New York City's Earned Sick Time Act (Paid Sick Leave Law), certain employers must give their employees sick leave. Go to nyc.gov/PaidSickLeave to learn which employees are covered by the law.

Employers with five or more employees who are hired to work more than 80 hours a calendar year in New York City must provide paid sick leave. Employers with less than five employees must provide unpaid sick leave.

Employers who have one or more domestic workers who have been employed at least one year and who work more than 80 hours a calendar year must provide paid sick leave.

By law, employers who must provide sick leave must give this written notice to new employees when they begin employment and to existing employees by May 1, 2014.

YOU HAVE A RIGHT TO SICK LEAVE, WHICH YOU CAN USE FOR THE CARE AND TREATMENT OF YOURSELF OR A FAMILY MEMBER.

AMOUNT OF SICK LEAVE:

- Your employer must provide up to 40 hours of sick leave every calendar year. Your employer's calendar year is:

Start of Calendar Year: January 1 End of Calendar Year: December 31

- Domestic workers:** Your employer must provide two days of paid sick leave in addition to the three days of paid rest to which you are entitled under [New York State Labor Law](#). Go to labor.ny.gov and search "Domestic Workers' Bill of Rights" for more information.

RATE OF ACCRUAL:

- You accrue sick leave at the rate of one hour for every 30 hours worked, up to a maximum of 40 hours of sick leave per calendar year.
- Domestic workers:** You must have worked for the same employer for at least one year to earn two days of paid sick leave under City law. DCA will provide guidance on rate of accrual at nyc.gov/PaidSickLeave.

DATE ACCRUAL BEGINS:

You begin to accrue sick leave on April 1, 2014 or on your first day of employment, whichever is later.

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

DATE SICK LEAVE IS AVAILABLE FOR USE:

- You can begin using sick leave on July 30, 2014 or 120 days after you begin employment, whichever is later.
- Domestic workers:** DCA will provide guidance on when sick leave is available for use at nyc.gov/PaidSickLeave.

ACCEPTABLE REASONS TO USE SICK LEAVE:

You can use sick leave when:

- You have a mental or physical illness, injury, or health condition; you need to get a medical diagnosis, care, or treatment of your mental or physical illness, injury, or condition; you need to get preventive medical care.
- You must care for 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.
- Your employer's business closes due to a public health emergency or you need to care for a child whose school or child care provider closed due to a public health emergency.

FAMILY MEMBERS:

The law recognizes the following as family members:

- Child (biological, adopted, or foster child; legal ward; child of an employee standing *in loco parentis*)
- Grandchild
- Spouse
- Domestic partner
- Parent
- Grandparent
- Child or parent of an employee's spouse or domestic partner
- Sibling (including a half, adopted, or step sibling)

ADVANCE NOTICE:

If the need is foreseeable, your employer can require up to seven days advance notice of your intention to use sick leave. If the need is unforeseeable, your employer may require you to give notice as soon as practicable.

DOCUMENTATION:

Your employer can require documentation from a licensed health care provider if you use more than three consecutive workdays as sick leave. The Paid Sick Leave Law prohibits employers from requiring the health care provider to specify the medical reason for sick leave. Disclosure may be required by other laws.

UNUSED SICK LEAVE:

Up to 40 hours of unused sick leave can be carried over to the next calendar year. However, your employer is only required to let you use up to 40 hours of sick leave per calendar year.

YOU HAVE A RIGHT TO BE FREE FROM RETALIATION FROM YOUR EMPLOYER FOR USING SICK LEAVE.

Your employer cannot retaliate against you for:

- Requesting and using sick leave.
- Filing a complaint for alleged violations of the law with DCA.
- Communicating with any person, including coworkers, about any violation of the law.
- Participating in a court proceeding regarding an alleged violation of the law.
- Informing another person of that person's potential rights.

Retaliation includes any threat, discipline, discharge, demotion, suspension, or reduction in your hours, or any other adverse employment action against you for exercising or attempting to exercise any right guaranteed under the law.

YOU HAVE A RIGHT TO FILE A COMPLAINT.

You can file a complaint with DCA. To get the complaint form, go online to nyc.gov/PaidSickLeave or contact **311** (212-NEW-YORK outside NYC).

DCA will conduct an investigation and try to mediate your complaint. DCA will keep your identity confidential unless disclosure is necessary to conduct the investigation, mediate the complaint, or is required by law.

Keep a copy of this notice and all documents that show your amount of sick leave and your sick leave accrual and use.

Note: The Earned Sick Time Act sets the minimum requirements for sick leave. Your employer's leave policies may already meet or exceed the requirements of the law.

You have a right to be given this notice in English and, if available on the DCA website, your primary language.

For more information, including Frequently Asked Questions, go to nyc.gov/PaidSickLeave or call **311** and ask for information about Paid Sick Leave.



Bill de Blasio
Mayor

Consumer
Affairs

Lorelei Salas
Commissioner

NEW YORK CITY PAID SAFE/SICK LEAVE REQUEST FORM

Please check with your Branch Representative to see if you have any New York City Paid Safe/Sick Leave time available to you (time must be used when you are scheduled to work), and if you have met the waiting period for its use. If you can use the sick time, please complete and submit this form to your Branch Representative at least 7 calendar days before using any accrued paid sick leave, or as soon as practicable.

If the need for sick time is unforeseeable, please notify your Branch Representative and the Customer before the start of your shift or, when circumstances prevent you from providing notice before the start of your shift, as soon as is practicable.

Name (Print):	Current Date:
Employer:	Customer:

The requested leave can be used in one-hour increments for:

- Mental illness, or the need for medical diagnosis, care, or treatment of a mental illness (employee or employee's family member)
- Physical illness, or the need for medical diagnosis, care, or treatment of a physical illness (employee or employee's family member)
- Injury, or the need for medical diagnosis, care, or treatment of injury (employee or the employee's family member)
- Health condition, or the need for medical diagnosis, care, or treatment of health condition (employee or employee's family member)
- Need for preventive medical care (employee or employee's family member)
- Closure of employee's place of business by order of a public official due to a health emergency
- Need to care for a child whose school or childcare provider has been closed by order of a public official due to a public health emergency
- When the employee or a family member has been the victim of a family offense matter, sexual offense, stalking, or human trafficking

(If applicable, please check one) – The family member is my:

<input type="checkbox"/>	Spouse (including same sex)	<input type="checkbox"/>	Sibling (including half, adopted, or step)
<input type="checkbox"/>	Domestic partner (registered)	<input type="checkbox"/>	Parent of an employee's spouse or domestic partner
<input type="checkbox"/>	Child	<input type="checkbox"/>	Grandparent
<input type="checkbox"/>	Child of employee's spouse or domestic partner	<input type="checkbox"/>	Grandchild
<input type="checkbox"/>	Parent	<input type="checkbox"/>	Any other individual related by blood to the employee; and any other individual whose close association with the employee is the equivalent of a family relationship

Day(s) Taken	Time Used	Branch Approval	
		<input type="checkbox"/>	Approved
		<input type="checkbox"/>	Approved

Verification and Certification for Safe/Sick Time Use

If the employee uses safe/sick time for more than three consecutive scheduled workdays or the employer reasonably suspects that an employee is abusing safe/sick time, including engaging in a pattern of abuse, the employer may require the employee to provide verification within 7 calendar days from a health care provider of the need for the safe/sick time. I understand that knowingly providing false information about the use of earned safe/sick leave could result in discipline, including dismissal.

I attest that I am working in New York City and have used the paid safe/sick time for one of the reasons outlined above.

Employee's Signature:	Date:
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