

**COLORADO PAID SICK LEAVE (PSL) AND SUPPLEMENTAL PAID SICK LEAVE DURING A PUBLIC HEALTH EMERGENCY**  
**Healthy Families & Workplaces Act (HFWA) – SB20-205**

**Based on Employer Size**

For employers with 16 more employees (all employers on January 1, 2022) in any calendar year, **each employee can accrue up to 48 hours of paid sick leave each calendar year** (January 1 to December 31).

**Paid Sick Leave Accrual**

Employees may **accrue sick leave at a rate of not less than one hour for every 30 hours worked up to a maximum of 48 hours per calendar year**, beginning at the commencement of their employment or the effective date of the law (January 1, 2021).

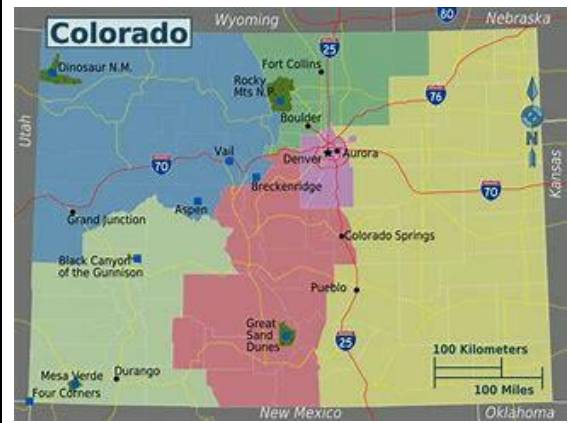
**Carryover for Paid Sick Leave**

An employee’s accrued but unused sick leave shall be carried over to the following calendar year up to **48 hours per calendar year**.

**Additional Paid Sick Leave During a Public Health Emergency**

On the date a public health emergency is declared, each employer in the state shall supplement each employee’s accrued paid sick leave as necessary to ensure that an employee may take the following amounts of paid sick leave for the purposes specified in uses under Public Health Emergency.

For Employees Who Normally Work	Amount of Public Health Emergency Paid Sick Leave (*an Employer may Count an Employee’s Unused Accrued Paid Sick Leave Toward the Supplemental Paid Sick Leave Required)
40 hours or more	80 Hours
<40 hours in a week	At least the greater of either the <b>amount of time the employee is scheduled to work in a 14-day period</b> (the company will use this method) or the amount of time the employee actually works on average in a 14-day period.
An employee may use paid sick leave under this section until four weeks after the official termination or suspension of the Public health Emergency.	



**EFFECTIVE:**

**1/1/2021**

Employers cannot count paid sick leave as an absence that may lead to, or result in, discipline, discharge, demotion, suspension, or any other retaliatory personnel action against the employee.

**Public Health Emergency Leave (PHEL) – HFWA does not clarify effective date**

Employees are eligible for PHEL in the amounts shown to the left\* only once during the entirety of a public health emergency (PHE), even if the PHE is amended, extended, restated, or prolonged.

**Public Health Emergency Defined**

- An act of bioterrorism, a pandemic influenza, or an epidemic caused by a novel and highly fatal infectious act, for which (1) a disaster emergency is declared by the governor; or (2) an emergency is declared by a federal, state, or local public health agency;
- A highly infectious illness or agent with epidemic or pandemic potential for which a disaster emergency is declared by the governor.

**Interaction with Existing Leave Policies and Laws**

Employers with a paid leave policy are not required to provide additional paid sick leave to employees if they: (1) make available an amount of paid leave sufficient to meet the PSST **and the public health emergency leave (PHEL) requirement** and (2) allow employees to use paid leave for the same purposes and under the same conditions as provided by the HWFA.

**The Colorado Department of Labor & Employment should offer guidance on whether and how existing paid leave programs may qualify.**

**Paid Sick Leave Accrual, Usage, and Carry Forward**

- Each employee earns at least one hour of paid sick leave for every 30 hours worked by the employee except that an employee is not entitled under this section to earn or use more than 48-hours of paid sick leave each year.
- An employee who is exempt from overtime accrues paid sick leave based on the assumption that the employee works 40 hours per week. If the employee’s normal workweek consists of fewer than 40 hours, the employee accrues paid sick leave based upon the number of hours that comprise the employee’s normal workweek.
- Employers must pay leave at the same hourly rate or salary and with the same benefits—including health care benefits—as the employee normally earns during hours worked, but the “same hourly rate or salary” does not include overtime, bonuses, or holiday pay.
- An employee begins to accrue paid sick leave when employment with the employer begins and may use accrued paid sick leave as it is accrued.
- Up to 48 hours of paid sick leave that an employee accrues in a calendar year but does not use carries forward to, and may be used in, a subsequent year; except that an employee cannot use more than 48-hours of paid sick leave in a calendar year.

**Leave can be used in increments of one hour.**

## Purposes of Paid Sick Leave and Public Health Emergency

Employees can use paid sick leave for the following purposes:

- Mental or physical illness, injury, or health condition of the employee or family member;
- Medical diagnosis, care, or treatment related to an employee's or family member's illness, injury, or condition, or
- Preventive medical care.

Additionally, if an employee or family member is the victim of domestic abuse, sexual assault, or harassment, employees can use leave for the following purposes:

- Seeking medical attention to recover from a mental or physical illness, injury, or health condition caused by the domestic abuse, sexual assault, or harassment;
- Obtaining services from a victim services organization;
- Obtaining mental health or other counseling;
- Seeking relocation due to the domestic abuse, sexual assault, or harassment; or
- Seeking legal services, including preparing for or participating in a civil or criminal proceeding relating to our resulting from the domestic abuse, sexual assault, or harassment.

### Public Health Emergency

Due to a public health emergency, a public official has ordered closure of:

- The employee's place of business, or
- The school or place of care of the employee's child and the employee needs to be absent from work to care for the employee's child.

### Family Members:

The law recognizes the following as family members:

- "Immediate family member" means a person who is related by blood, marriage, civil union, or adoption.
- Child to whom the employee stands in loco parentis to the employee when the employee was a minor; or
- A person for whom the employee is responsible for providing or arranging health- or safety-related care.

## Uses for Paid Sick and Safe Time and Public Health Emergency (Cont.)

### Public Health Emergency Leave (PHEL)

Employees will be provided the supplemental paid sick leave for the following absences related to a Public Health Emergency:

- To self-isolate and care for oneself (or a family member who is self-isolating) because the employer (or family member) is diagnosed with, or experience symptoms of, the communicable illness that is the cause for the PHE;
- To seek or obtain (or care for a family member who needs) medical diagnosis, care, or treatment if experiencing symptoms associated with a communicable illness that is the cause of the PHE;
- To seek (for oneself or a family member) preventive care concerning a communicable illness that is the cause of the PHE;
- If the individual's present on the job or in the community would jeopardize the health of others because of the individual's exposure to the communicable illness or because the employee is exhibiting symptoms of the communicable illness (regardless of diagnosis), as determined by local officials with such authority or the employee's or covered relation's employer;
- To care for a child or other family member when the child's care provider is unavailable due to a PHE, or if the child's or family member's school or place of care has been closed by a local, state, or federal public official or at the discretion of the school or place of care due to a PHE, including if a school or place of care is physically closed by providing instruction remote; or
- If an employee is unable to work because the employee has a serious health condition that may increase susceptibility to or risk of communicable illness that is the cause of the PHE.

An employee shall notify the employer of the need for paid sick leave under the Public Health Emergency Leave when the need for leave is foreseeable and the employer's place of business has not been closed.

Documentation is not required to take paid sick leave under the Public Health Emergency Leave.

Public Health Emergency paid sick leave will be supplemented as described above.

**The HWFA does not provide a specific date by when the PHEL leave requirement begins. The CDLE will have to clarify this issue.**

## Employee Notice Requirements

Employees may request to use paid sick leave orally, in writing, or electronically:

- When the need for paid sick leave is known to the employee in advance, such as for a scheduled appointment with a health care provider, the employee shall provide notice of the need for such leave and the expected duration of the absence to your branch representative (and the customer) in advance of the use of the sick time and shall make a reasonable effort to schedule the use of sick time in a manner that does not unduly disrupt the operations of the customer.
- For all other absences, the employee shall notify your branch representative (and the customer) before the start of the employee's scheduled work hours (at least one hour prior to the start of their shift), or as soon as practicable if the need arises immediately before or after the employee has reported for work.
- If both the employer and employee agree the employee may work additional hours or shifts instead of using earned sick time. If, by taking on additional hours, the employee works more than 40 hours in a week, then he or she must be paid at the overtime rate (if applicable). **The employee will not be paid any accrued earned sick time, if the time is made up.**
- Employees must claim used, earned paid earned sick time when used, and must be paid sick time on the same schedule as regular wages are paid. Employers may not delay compensating employees for earned paid sick time, therefore, **employees must claim earned sick time no later than the week after it is used.**

An employer shall not require, as a condition of providing paid sick leave, an employee who uses paid sick leave to search for or find a replacement worker to cover the time during which the employee is absent from work.

Note: For paid sick leave of four (4) or more consecutive workdays, an employer may require reasonable documentation that the paid sick leave is for a purpose authorized by this ordinance.

## 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.

## Transferred to a Separate Division, Entity, or Location But Remains Employed by the Same Employer

The employee is entitled to all paid sick leave accrued at the prior division, entity, or location and is entitled to use all paid sick leave as indicated in this ordinance.

## Successor Employer

If a successor employer succeeds an original employer, all employees of the original employer who remain employed by the successor employer are entitled to all paid sick leave that the employees accrued when employed by the original employer and are entitled to use previously accrued paid sick leave as specified above.

## Rehire Rules

If an employee separates from employment and is rehired by the same employer within 6 months after the separation, the employer shall reinstate any paid sick leave that the employee had accrued but not used during the employee's previous employment with the employer.

**Colorado** – In SmartSearch, if the employee is working in Colorado, mark Personnel subarea as "Colorado."





## **THE HEALTHY FAMILIES & WORKPLACES ACT (“HFWA”): Paid Leave Rights**

### **Coverage: Employers with at least 16 employees are required to provide paid leave under the HFWA**

- Employees earn 1 hour of paid leave per 30 hours worked (“accrued leave”), up to 48 hours a year.
- Up to 80 hours of supplemental leave applies in a public health emergency (PHE), until 4 weeks after the PHE ends.
- Regular hours and pay set the rate of accrual and compensation for leave, during which benefits continue.
- Up to 48 hours of unused accrued leave carries over for use the next year.
- For details on specific situations (irregular hours, non-hourly pay, etc.), see Wage Protection Rule 3.5, 7 CCR 1103-7.

### **Employees can use accrued leave for the following safety or health needs:**

- (1) a mental or physical illness, injury, or health condition that prevents work, including diagnosis or preventive care;
- (2) domestic abuse, sexual assault, or criminal harassment leading to health, relocation, legal, or other services needs;
- (3) has a family member experiencing a condition described in category (1) or (2); *or*
- (4) in a PHE, a public official closed the workplace, or the school or place of care of the employee’s child.

### **In a public health emergency (PHE), employees can use supplemental PHE leave for the following needs:**

- (1) self-isolating or work exclusion due to exposure, symptoms, or diagnosis of the communicable illness in the PHE;
- (2) seeking a diagnosis, treatment, or care (including preventive care) of such an illness;
- (3) being unable to work due to a health condition that may increase susceptibility to or risk of such an illness; or
- (4) caring for a child or other family in category (1)-(3), or whose school or child care is unavailable due to the PHE.

During a PHE, employees still earn up to 48 hours of accrued leave and may use supplemental leave before accrued leave.

### **Employer Policies (Notice; Documentation; Incremental Use; Privacy; and Paid Leave Records)**

- **Written notice and posters.** Employers must (1) provide notice to new employees no later than other onboarding documents/policies; and (2) display updated posters, and provide updated notices to current employees, by end of year.
- **Notice for “foreseeable” leave.** Employers may adopt “reasonable procedures” in writing as to how employees should provide notice if they require “foreseeable” leave, but cannot deny paid leave for noncompliance with such a policy.
- **An employer can require documentation to show that leave was for a qualifying reason only if leave was taken for four or more consecutive work days** (*i.e.* days on which an employee would have worked, not calendar days).
- **Documentation is not required to *take* paid leave**, but can be required as soon as an employee can provide it after returning to work or separating from work (whichever is sooner). **No documentation can be required for PHE leave.**
- **To document leave for an employee’s (or an employee’s family member’s) health-related need**, an employee may provide: (1) a document from a health or social services provider *if* services were received and document can be obtained in reasonable time and without added expense; *otherwise* (2) the employee’s own writing.
- **To document that an employee (or an employee’s family member) required leave for a need related to domestic abuse, sexual assault, or criminal harassment**, an employee may provide: a document or writing under (1) above (*e.g.* from a provider of legal or shelter services) or (2) above, or a legal document (*e.g.*, a restraining order or police report).
- **If an employer reasonably deems an employee’s documentation deficient**, the employer must: (A) notify the employee within seven days of either receiving the documentation or the employee’s return to work or separation (whichever is sooner), and (B) give the employee at least seven days to cure the deficiency.

- **Incremental use.** Depending on employer policy, employees can use leave in either hourly or six-minute increments.
- **Employee Privacy.** Employers cannot require employees to disclose “details” about an employee’s (or their family’s) HFWA-related health or safety information; such information must be treated as a confidential medical record.
- **Records must be provided upon request.** Employers must provide documentation of the current amount of paid leave employees have (1) available for use, and (2) already used during the current benefit year, including any supplemental PHE leave. Information may be requested once per month or when the need for HFWA leave arises.

### **Retaliation or Interference with HFWA Rights**

- **Paid leave cannot be counted as an “absence”** that may result in firing or another kind of adverse action.
- **An employee can’t be required to find a “replacement worker” or job coverage when taking paid leave.**
- **An employer cannot fire, threaten, or otherwise retaliate against, or interfere with use of leave by**, an employee who: (1) requests or takes HFWA leave; (2) informs or assists another person in exercising HFWA rights; (3) files a HFWA complaint; or (4) cooperates/assists in investigation of a HFWA violation.
- **If an employee’s reasonable, good-faith HFWA complaint, request, or other activity is *incorrect***, an employer need not agree or grant it, but cannot *act against* the employee for it. Employees *can* face consequences for misusing leave.

## **THE PUBLIC HEALTH EMERGENCY WHISTLEBLOWER LAW (“PHEW”): Worker Rights to Express Workplace Health Concerns & Use Protective Equipment**

### **Coverage: All Employers and Employees, Plus Certain Independent Contractors**

- PHEW covers not just “employers” and “employees,” but all “principals” (an employer or a business with at least 5 independent contractors) and “workers” (employees or independent contractors at a “principal”).

### **Worker Rights to Oppose Workplace Health/Safety Violations During Public Health Emergencies:**

- It is unlawful to retaliate against, or interfere with, the following acts during, and related to, a public health emergency:
  - (1) **raising reasonable concerns**, including informally, to the principal, other workers, the government, or the public, about workplace violations of government health or safety rules, or a significant workplace health or safety threat;
  - (2) **opposing or testifying, assisting, or participating** in an investigation or proceeding about retaliation for, or interference with, the above-listed conduct .
- A principal need not address a worker’s PHEW-related concern, but it still cannot fire or take other *action against* the worker for that reason, as long as the concern was reasonable and in good-faith.

### **Workers’ Rights to Use Their Own Personal Protective Equipment (“PPE”):**

- A worker must be allowed to **voluntarily wear their own PPE** (mask, faceguard, gloves, etc.) if the PPE (1) provides **more protection** than equipment provided at the workplace, (2) is **recommended** by a government health agency (federal, state, or local), and (3) does not make the worker **unable to do the job**.

## **COMPLAINT RIGHTS (under both HFWA & PHEW)**

- Violations may be reported to the Division as complaints or anonymous tips, or may be filed as in court after exhausting pre-lawsuit remedies.

This Poster summarizes two Colorado workplace public health laws, SB 20-205 (paid leave) and HB 20-1415 (whistleblowing and personal protective equipment). It does not cover other health or safety laws, rules, and orders, including under the federal Occupational Safety and Health Act (OSHA), from the Colorado Department of Public Health and Environment (CDPHE), or from local public health agencies. Contact those agencies for such health and safety information.

**This poster must be displayed where it is easily accessible to workers, shared with remote workers, provided in languages other than English as needed, and replaced annually.**

**For full versions of these laws, more detailed fact sheets, or questions, information, or complaints as to these or other labor laws, contact:  
Division of Labor Standards and Statistics, [coloradolaborlaw.gov](http://coloradolaborlaw.gov), [cdle\\_labor\\_standards@state.co.us](mailto:cdle_labor_standards@state.co.us), 303-318-8441 / 888-390-7936.**