

NEW YORK PAID SICK LEAVE LAW (PSSL)

Based on Employer Size

For employers with one hundred or more employees in any calendar year, **each employee shall be provided up to 56 hours of paid sick leave each calendar year** (January 1 to December 31).

Accrual

Employees may accrue sick leave at a rate of not less than **one hour for every 30 hours worked**, beginning at the commencement of their employment or the effective date of the law (September 30, 2020).

Carryover

An employee's unused sick leave shall be carried over to the following calendar year (based on employer size): an employer with 100 or more employees **may limit the use of sick leave to 56 hours per calendar year**.

Interaction with Existing Leave Policies and Laws

If an employer already has an existing paid leave policy that satisfies all of the requirements under the paid sick leave law (i.e., accrual rate, carryover, and permissible uses), the employer is not required to provide additional sick leave.

Local Paid Sick Leave Laws

This law does not prevent a city or municipality with a population of one million or more from enforcing local laws or ordinances which meet or exceed the standards or requirements of this law. The law also provides that any paid leave benefits provided by a municipal corporation existing as of the effective date of the law (9/30/2020) will remain in effect.

If any employee is currently working in New York City or Westchester County, as of 1/1/2021, you will be provided the law which is more generous. You will also be entitled to all the paid sick/safe reasons that those laws allow in addition to the New York Paid Sick Leave reasons for use.



EFFECTIVE:

9/30/2020: Accruals Start

1/1/2021: Can start using the accrued sick time. After 1/1/2021, the law permits employees to use sick leave immediately upon accrual, even if hired after 1/1/2021.

No employer shall discharge, threaten, penalize, or in any other manner discriminate or retaliate against any employee because such employee has exercised his or her rights afforded under this section, including, but not limited to, requesting sick leave and using sick leave, consistent with the provision of this section.

Uses for Paid Sick Leave

Any accrued paid sick leave **may be used on or after 1/1/2021** for the following reasons:

- For a mental or physical illness, injury, or health condition of such employee or such employee's family member, regardless of whether such illness, injury, or health condition has been diagnosed or requires medical care at the time that such employee requests such leave;
- For the diagnosis, care, or treatment of a mental or physical illness, injury or health condition of, or need for medical diagnosis of, or preventive care for, such employee or such employee's family member; or
- For an absence from work due to any of the following reasons when the employee or employee's family member has been the victim of domestic violence pursuant to subdivision 34 of Section 292 of the executive law, a family offense, sexual offense, stalking, or human trafficking:
 - To obtain services from a domestic violence shelter, rape crisis center, or other services program;
 - To participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family members;
 - To meet with an attorney or other social services provider to obtain information and advice on, and prepare for or participate in any criminal or civil proceeding;
 - 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 any other actions necessary to ensure the health or safety of the employee or the employee's family member or to protect those who associate or work with the employee.

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

Employees shall receive compensation at his or her regular rate of pay, or the applicable minimum wage (established by Labor Law Section 652), whichever is greater, for the use of sick paid sick leave.

Family Members:

The law recognizes the following as family members:

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

Any person who has committed such domestic violence, family offense, sexual offense, stalking, or human trafficking shall not be eligible for leave for situations in which the person committed such offense and was not a victim, notwithstanding any family relationship.

Upon return to work following any sick leave taken pursuant to this section, an employee shall be restored by his or her employer to the position of employment held by such employee prior to any sick leave taken with the same pay and other terms and conditions of employment.

Employee Notice Requirements

Employees may request to use paid sick leave orally or in writing.

- 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 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 may not require the disclosure of confidential information relating to a mental or physical illness, injury, or health condition of such employee or such employee's family member, or information relating to absence from work due to domestic violence, a sexual offense, stalking or human trafficking, as a condition of providing sick leave.

Employer Notice Requirements

Upon the oral or written request of an employee, an employer shall provide a summary of the amount of sick leave accrued and used by such employee in the current calendar year and/or any previous calendar year. The employer shall provide such information to the employee within three business days of such request.

Payroll records for not less than six years must be kept showing the amount of sick leave provided to each employee.

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.

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