

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

### Eligibility

Provide up to 40 hours of paid 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 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.

### 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**

Revised: 4/7/2016

## Paid Sick Leave Law

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.

## 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 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.

**If an employee uses more than three consecutive workdays as sick leave, the company (or customer) can require documentation from a licensed health care provider.** (The employer is responsible for the cost not covered by insurance or any other benefit plan). The Paid Sick Leave Law prohibits an employer from requiring the health care provider to specify the medical reason for sick leave. Disclosure may be required by other laws (e.g., Family Medical Leave). An employer may require an employee to provide written verification that the employee used sick leave for sick leave purposes.

## 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	<b>April 1, 2014</b> (Existing employee)	<b>July 30, 2014</b> (Existing employee)
	<b>First day of employment</b> (New employee)	<b>120 days after first day of employment</b> (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)

<b>Unused Sick Leave</b>	
<ul style="list-style-type: none"> <li>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.</li> </ul>	
<b>No Pay Out Upon Termination</b>	
<ul style="list-style-type: none"> <li>There will be no pay out of accrued but unused sick leave upon termination, resignation, retirement, or other separation from employment.</li> </ul> <p><b>Rehires:</b></p> <ul style="list-style-type: none"> <li>If an employee is rehired within six months, the employer must reinstate previously accrued sick leave.</li> <li>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.</li> </ul> <p>In contrast, if an employee had <u>not</u> 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.</p>	<p>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.</p> <p>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.</p>
<p><b>New York City Zip Codes Included</b> – 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</p>	

# Notice of Employee Rights

New York City's Earned Sick Time Act  
(Paid Sick Leave Law)

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](http://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](http://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](http://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](http://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
- 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](https://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.**

You have a right to be given this notice in English and, if available on the DCA website, your primary language. DCA has translated this notice to Spanish, Chinese, French-Creole, Italian, Korean, and Russian.

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



Bill de Blasio  
Mayor

**Department of  
Consumer Affairs**