

OREGON PAID SICK TIME LAW (This law replaces City of Portland Paid Sick Leave Law as of 1/1/2016)

Workers employed in Oregon, including state and local public workers, are covered. Independent contractors, an employee who receives paid sick time under federal law; certain work training program participants, certain work study students, certain railroad workers, and individuals employed by their parent, spouse, or child are *exempted*.

ELIGIBILITY: Sick leave will accrue at a rate of 1 hour for every 30 hours worked and up to a maximum of 40 hours can be used per calendar year. A calendar year will be from January 1 to December 31st each year.

Note: Any paid time (PTO) policies that include time off for other purposes (such as vacation and other personal time off) comply with the sick time law as long as the policy is substantially equivalent to or more generous than the requires of the law.



EFFECTIVE: 1/1/2016

Paid Sick Time Uses

- For an employee’s or family member’s mental or physical illness, injury or health condition or need for medical diagnosis of these conditions or need for preventive medical care.
- To care for an infant or newly adopted child under 18, or for a newly placed foster child under 18, or for a child over 18 if the child is incapable of self-care because of mental or physical disability. Leave must be completed within 12 months after birth or placement of the child.
- To care for a family member with a serious health condition as defined in OAR 839-009-0210(2).
- To recover from or seek treatment for a serious health condition that renders the employee unable to perform at least one of the essential functions of the employee’s job.
- To care for a child of the employee who is suffering from a non-serious illness, injury or condition.
- To deal with the death of a family member (within 60 days of notice of the death of a family member) by attending the funeral or alternative, making arrangements necessitated by the death of a family member, or grieving the death of a family member.
- To seek legal or law enforcement assistance or remedies to ensure the health and safety of the employee or the employee’s minor child or dependent for proceedings related to domestic violence, harassment, sexual assault, or stalking.
- To see medical treatment, recover from injuries, or obtain services related to domestic violence, sexual assault, harassment or stalking incidents to the employee or employee’s minor child or dependent.
- For certain public health emergencies.

Leave can be used in increments of one hour.

Family member means an employee’s:

- Spouse,
- Same-gender domestic partner,
- Custodial or non-custodial parent,
- Adoptive parent,
- Foster parent,
- Biological parent,
- Stepparent,
- Parent-in-law,
- Same-gender domestic partner’s parent,
- Grandparent or grandchild, or
- Person with whom the employee is or was in a relationship of in loco parentis.

Also includes:

- Biological, adopted, foster child or stepchild of an employee;
- Child of an employee’s same-gender domestic partner.

An employee’s child in any of these categories may be either a minor or an adult at the time qualifying leave pursuant to these rules is taken.

Paid Sick Time Accrual

Rate of Accrual	Date Accrual Begins	Date Sick Leave Available for Use
1 hour for every 30 hours worked	1/1/2016 (Existing employee)	Must have worked 90 calendar days counting from your first day of employment (Existing employee)
	First day of employment (New employee)	90 days after first day of employment (New employee)

On-call employees are entitled to use sick time for hours they have been scheduled to work.

Note: At least each quarter employee will be given written notification about the amount of accrued and unused sick time available to the employee.

Employees may use accrued sick time on the 91st calendar day of employment and may use sick time as it is accrued.

- Employees may carry over up to 40 hours of unused accrued sick time form one year to the next.
- Employees will be paid based on their *regular rate of pay* which means the regular hourly rate that an employee earns for the workweek in which the employee uses paid sick time and which is no less than the applicable minimum wage rate. Does not include: overtime, holiday pay, or other premium rates, bonuses, or other types of incentive pay.

Single Hourly Rate	Same hourly rate the employee would have earned for the period of time in which sick time is used.
Multiple Hourly Rates of Pay	Either: <ul style="list-style-type: none"> • Wages the employee would have been paid, if known, for the period of time in which sick time is used; or • The weighted average of all regular rate of pay during the previous pay period.
Salaried	Total wages earned during the pay period covered by the salary divided by the number of hours agreed to be worked in the pay period which the salary is intended to compensate (e.g., salary of \$525/35 hours = \$15 per hour)
Salaried (hours of work vary from week to week)	The employee is presumed to work 40 hours in each workweek.
Commission	The regular rate of pay means the rate of pay agreed upon by the employer and the employee. In the absence of a previously established regular rate of pay, sick time shall be compensated at a rate of no less than the applicable statutory minimum wage.
Employees for Whom Recording Hours Worked is not Required	Employer may establish a reasonable method of calculating the number of hours worked by the employee.

Employee Notice Requirements

- If the reason for the sick time is a foreseeable absence, such as a pre-scheduled medical appointment, please provide 10 calendar days advance notice of your intention to use sick time (to the customer and your branch representative), or as soon as practicable.
- When an employee uses sick time for a foreseeable absence, the employee shall make a reasonable effort to schedule the sick time in a manner that does not unduly disrupt the operations of the employer. For example, the employee should make a reasonable attempt not to schedule medical appointments during peak business hours, when work is time-sensitive or when mandatory meetings are scheduled.
- The employee shall inform the employer (and customer) of any change in the expected duration of the sick time as soon as practicable.
- If the reason for sick time is unforeseeable, such as an emergency, accident, or sudden illness, the employee shall provide notice to the customer and your branch representative before the start of the employee's shift or, when circumstances prevent the employee from providing notice before the start of the employee's shift, as soon as is practicable.
- An employer may discipline an employee for violating workplace policies and procedures if the employee fails to provide notice as required by these rules or if the employee fails to make a reasonable effort to schedule leave in a manner that does not unduly disrupt the operations of the employer. The employer may not discipline the employee for use of sick time.

Verification and Certification for Sick Time Use

If an employee uses sick time for more than three (3) consecutive scheduled workdays or the employer reasonably suspects that an employee is abusing sick time, including engaging in a pattern of abuse, the employer may require the employee to provide verification within 15 calendar days from a health care provider of the need for the sick time. The employer must pay for any costs of verification that are not covered under a health benefit plan.

An employer may not require that any verification or certification required explain the nature of the illness or details related to the domestic violence, sexual assault, harassment, or stalking that necessitates the use of sick time. For purposes relating to domestic violence, sexual assault, harassment or stalking, the employer may require the employee to provide certification of the need for leave, such as:

- A copy of a police report indicating that the eligible employee or the employee's minor child or dependent was a victim of domestic violence, harassment, sexual assault or stalking;
- A copy of a protective order or other evidence from a court, administrative agency or attorney that the eligible employee appeared in or was preparing for a civil, criminal or administrative proceeding related to domestic violence, harassment, sexual assault or stalking; or
- Documentation from an attorney, law enforcement officer, health care professional, licensed mental health professional or counselor, member of the clergy or victim services provider that the eligible employee or the employee's minor child or dependent was undergoing treatment or counseling, obtaining services or relocating as a result of domestic violence, harassment, sexual assault or stalking.

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

- An employer shall restore previously accrued unused sick time to an employee who is reemployed by that employer within 180 days of separation from employment with the employer.
- If an employee leaves employment with an employer before the 91st day of employment and subsequently is reemployed by that employer within 180 days of separation from employment, the employer shall restore the accrued sick time balance the employee had when the employee left the employment of the employer and the employee may use accrued sick time after the combined total of days of employment with the employer exceeds 90 calendar days.



Brad Avakian, Commissioner

REQUIREMENTS OF OREGON'S SICK TIME LAW

Effective January 1, 2016, employers that employ employees in the state of Oregon are required to implement sick time policies and provide sick time to employees. Employers are also required to provide employees with a notice of the law's provisions. This notice is intended to summarize the major provisions of the law, but should not be relied upon as a full and complete summary of the law. The full text of the law and administrative rules adopted by the bureau are available at www.oregon.gov/boli.

How much sick time does the law require? Employees begin accruing sick time on the first day of employment and earn one (1) hour of sick time for every 30 hours worked or 1 1/3 hours for every 40 hours worked. Employees may use accrued sick time on the 91st calendar day of employment and may use sick time as it is accrued.

Employers may choose to simply give employees ("front load") 40 hours of sick time at the beginning of the year rather than track the number of sick time hours accrued. Employers may also select the 12-month period to be used as the designated "year", e.g., calendar year, fiscal year, employee anniversary date, etc.

Employees may carry over up to 40 hours of unused sick time from one year to the next; however, employers may adopt policies that limit employees to accruing no more than 80 hours of sick time or using no more than 40 hours of sick time in a year.

Paid time off (PTO) policies that include time off for other purposes (such as vacation and other personal time off) comply with the sick time law as long as the policy is substantially equivalent to or more generous than the requirements of the law. "Substantially equivalent" means that employees are allowed to use at least the same number of hours for the same purposes under the same or more generous rules as outlined in this notice.

Employees must use accrued sick time in hourly increments unless to do so would pose an undue hardship to the employer, in which case the employer may require sick time to be taken in minimum increments of four hours if the employer allows employees to use at least 56 hours of paid leave per year for absences covered by this law.

When must sick time be paid? Employers with 10 or more employees in the state (6 or more if the employer maintains a location in Portland) must pay employees for sick time taken at the employee's regular rate of pay. All other employers must provide unpaid sick time.

The number of all employees employed by the employer in Oregon must be counted – including full-time, part-time and temporary employees.

Notices and Verification: In addition to providing a notice to employees of the requirements of the law, employers are required to provide **quarterly notifications** to employees of the amounts of accrued and unused sick time.

Employers may require employees to provide notices, verifications and certifications for using sick time under certain circumstances. For example, if the need for sick time is foreseeable, employers may require employees to provide up to 10 days' notice of the need to use sick time. Refer to the law and rules for more information.

Discrimination/Retaliation Prohibited: It is unlawful for an employer to deny, interfere with, restrain or fail to pay for sick time to which an employee is entitled; or retaliate or in any way discriminate against an employee because the employee has inquired about the provisions of the law, submitted a request for or taken sick time. Complaints may be filed with the Bureau of Labor and Industries.

Collective Bargaining Agreement Exception: The sick time law does not apply to certain employees who are covered by a collective bargaining agreement, employed through a hiring hall and whose benefits are provided by a joint multi-employer-employee trust or benefit plan.

For what purposes may sick time be used?

Employees are entitled to use sick time for the following purposes:

- For an employee's or family member's mental or physical illness, injury or health condition or need for medical diagnosis of these conditions or need for preventive medical care.
- To care for an infant or newly adopted child under 18, or for a newly placed foster child under 18, or for a child over 18 if the child is incapable of self-care because of mental or physical disability.
- To care for a family member with a serious health condition.
- To recover from or seek treatment for a serious health condition that renders the employee unable to perform at least one of the essential functions of the employee's job.
- To care for a child of the employee who is suffering from a non-serious illness, injury or condition.
- To deal with the death of a family member by attending the funeral or alternative, making arrangements necessitated by the death of a family member, or grieving the death of a family member.
- To seek medical treatment, legal or law enforcement assistance, remedies to ensure health and safety, or to obtain other services related to domestic violence, sexual assault, harassment or stalking incidents to the employee or employee's minor child or dependent.
- To donate sick time to another employee for qualifying purposes if the employer has a policy allowing such donations.
- For certain public health emergencies including closure by a public official of the employee's place of business, school or place of care of the employee's child, or a determination by a public health authority or health care provider that the presence of the employee or a family member presents a health risk to others.