

## SAN DIEGO, CALIFORNIA

### CITY OF SAN DIEGO EARNED SICK LEAVE AND MINIMUM WAGE ORDINANCE

Covers workers who, in one or more calendar weeks of the year performs **at least 2 hours of work within the geographic boundaries of San Diego in one or more calendar weeks of the year**, and who are entitled to minimum wage under California law.

An employee can accrue **one hour of paid sick time for every 30 hours worked**, beginning their first day of employment or July 11, 2016, whichever is later.

Employees may not use more than 40 hours of accrued paid sick leave in a calendar year.

An employee can begin using any accrued paid sick leave on the 90<sup>th</sup> calendar day following the start of employment.

Employee's total accrual of earned sick leave is capped at 80 hours per calendar year.



**EFFECTIVE: 7/11/2016**

Retaliation or discrimination against an employee who requests paid sick days or uses paid sick days or both is prohibited.

#### **Paid Sick Leave – Use of**

- Employee is physically or mentally unable to perform his or her duties due to illness, injury, or a medical condition of the Employee;
- Purpose of obtaining professional diagnosis or treatment for a medical condition of the Employee;
- For other medical reasons of the Employee, such as pregnancy or obtaining a physical examination;
- Employee is providing care or assistance to a Family Member, with an illness, injury, or medical condition, including assistance in obtaining professional diagnosis or treatment of a medical condition;
- Employee's absence if for the Employee's use of Safe Time (e.g., due to Domestic Violence, Sexual Assault, or Stalking);
- Employee's place of business is closed by order of a public official due to a Public Health Emergency, or the Employee is providing care or assistance to a Child, whose school or child care provider is closed by order of a public official due to a Public Health Emergency.

Employee can use paid sick time in one (1) hour increments.

**Note:** An employee must miss scheduled work time in order to receive paid leave for the absence.

#### **Family Member**

- Child (biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis);
- Parent (biological, foster, or adoptive parent; step-parent; a legal guardian; or a person who stood in loco parentis when the employee was a minor child);
- Spouse (a person to whom an employee is legally married under the laws of the State of California, or the Employee's Domestic Partner)
- Grandparent;
- Grandchild;
- Sibling; or
- The Child or Parent of a Spouse.

### Paid Sick Leave – Employee Notice Requirement

- Employee must be eligible and accumulate sick time (see below) before requesting use of sick leave.
- An employee may request paid sick days in writing or verbally.
- If the need for paid sick leave is foreseeable, the employee shall provide reasonable advance notification to the customer **and** your branch representative, not to exceed seven days advance notice, about his/her need for paid sick leave.
- If the need for paid sick leave is unforeseeable, the employee shall provide notice of the need for paid sick leave to the customer **and** your branch representative as soon as practicable.

For an absence of more than three consecutive days, an Employer may require reasonable documentation--e.g., documentation signed by a licensed Health Care Provider indicating the need for the amount of Earned Sick Leave taken. The documentation should not specify the nature of the Employee's or the Family Member's injury, illness, or medical condition.

An employer cannot require an Employee to search for or find a replacement worker to cover the hours during which such Employee is Using Earned Sick Leave.

### Paid Sick Leave – Accrual

- For every 30 hours worked, an employee shall accrue one hour of paid sick leave. Sick leave accrues in whole hours.
- An employee may **use accrued paid sick days beginning on the 90th day of employment or July 11, 2016, whichever is later.** The 90 day period works like a probationary period. Although you begin to accrue paid sick leave on July 11, 2016, or your first day of employment if you are hired after July 11, 2016, if you work less than 90 days for the company, you are not entitled to take paid sick leave.
- Paid sick leave will be calculated for nonexempt employees in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time.
- Employees exempt from the overtime requirements of federal and California law must be compensated at the same rate or in the same manner as the Employer calculates compensation for paid working time.
- An exempt employee is deemed to work 40 hours per workweek unless the employee's normal workweek is less than 40 hours, in which case the employee shall accrue paid sick days based upon that normal workweek.
- Accrued paid sick leave does not expire; it carries over from year-to-year.

90-day time period is regardless of *where* the employee worked—it just has to be 90 days with the company.

Note: If an employer has a paid leave policy, such as PTO or vacation policy, that makes available to employees leave that may be used for the same purposes specified in the Ordinance (or for any purpose) and that is sufficient to meet the Ordinance's requirements for paid sick leave accrual, then it is not required to provide additional paid sick leave.

**Overall Amount of Paid Sick Time That Can be Used and Accrual Cap in a Calendar Year**

- Once employees **hit their cap (i.e., 80 hours) in a calendar year**, they no longer accrue paid sick leave until they use some of the hours they have “in the bank”.
- Employees may not use more than 40 hours of accrued paid sick leave in a calendar year.
- The amount carried over to the next year is subject to the 80-hour cap.

**Paid Sick Leave – Upon Termination**

Accrued unused paid sick leave **is not paid out** upon termination, resignation, retirement, or other separation from employment

Note: Only paid out if using a PTO or vacation policy to comply with the Ordinance (which we are not).

**Rehires**

If rehired by the company within 6 months from the previous date of separation, previously accrued and unused paid sick days shall be reinstated.

The employee shall be entitled to use those previously accrued and unused sick days after 90 days of employment with the company (counting their previous time working for the company) and to accrue additional paid sick days upon rehiring.

**San Diego – In SAP if the employee is working in the city of “San Diego,” mark the subarea as “San Diego, CA.”**

92105	92134	92168
92106	92135	92169
92107	92138	92170
92108	92139	92175
92113	92140	92176
92114	92142	92177
92115	92149	92186
92116	92150	92187
92117	92152	92190
92122	92158	92191
92123	92159	92198
92124	92160	92199
92126	92161	
92127	92162	
92101	92163	
92102	92164	
92103	92165	
92104	92171	
92109	92172	
92110	92174	
92111	92179	
92119	92182	
92120	92184	

92121	92192	
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**POST WHERE EMPLOYEES CAN EASILY READ  
VIOLATORS ARE SUBJECT TO PENALTIES**

## **OFFICIAL NOTICE**

# **SAN DIEGO EARNED SICK LEAVE**

Rate Effective Date: July 11, 2016

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Beginning July 11, 2016, all employers must provide paid earned sick leave to each employee (including temporary and part-time employees) who performs at least two (2) hours of work within the geographical boundaries of the City of San Diego.

The earned sick leave requirements set forth in San Diego's Earned Sick Leave and Minimum Wage Ordinance, O-20390, applies to adult AND minor employees who work two (2) or more hours in one workweek within the City's geographic boundaries. Employers must provide employees one (1) hour of earned sick leave for every thirty (30) hours worked by the employee within the geographic boundaries of the City of San Diego. Existing employees begin to accrue earned sick leave on July 11, 2016. Employees hired after July 11, 2016 begin to accrue sick leave on their employment start date. Employees are entitled to use accrued earned sick leave beginning July 11, 2016 or after the ninetieth (90) day of employment, whichever is later. Employees may use earned sick leave for all the reasons described in Section 39.0106(a) of the Ordinance, which includes, but is not limited to, time for their own medical care or for the medical care of a family member.

An employer may not retaliate against an employee for asserting any rights provided in this Ordinance. Employees may file a civil lawsuit against their employers for any violation of the Ordinance or may file a complaint with the City of San Diego's Minimum Wage Enforcement Office. The City may take any reasonable steps necessary to investigate alleged violations. The City is entitled to all legal and equitable relief to remedy any violation of the Ordinance, including the ability to award penalties of up to \$1,000 per violation, back wages, liquidated damages, reinstatement and other injunctive relief.

If you have questions, need additional information, or believe you are not being paid correctly, please contact your employer or visit the City of San Diego Minimum Wage Enforcement Office website at <https://www.sandiego.gov/treasurer/minimum-wage-program>.

**POST WHERE EMPLOYEES CAN EASILY READ  
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# **OFFICIAL NOTICE SAN DIEGO MINIMUM WAGE**

# **\$11.50** PER HOUR

Rate Effective Date: January 1, 2017

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Beginning January 1, 2017, employees who perform at least two (2) hours of work in one work week within the geographic boundaries of the City of San Diego must be paid wages of not less than \$11.50 per hour for all hours worked within the City's geographic boundaries.

San Diego's Earned Sick Leave and Minimum Wage Ordinance, San Diego Municipal Code Chapter 3, Article 9, Division 1, apply to adult AND minor employees who work two (2) or more hours in any work week within the City's geographic boundaries. Note: tips do not count towards payment of the minimum wage.

Employers may not retaliate against employees for asserting any rights provided by this Ordinance. Employees may file a civil lawsuit against their employers for any violation of this Ordinance or may file a complaint with the City of San Diego's Minimum Wage Enforcement Office. The City may take any reasonable steps necessary to investigate possible alleged violations. The City is entitled to all legal and equitable relief to remedy any violation of the Ordinance, including the ability to award penalties of up to \$1,000 per violation, back wages, liquidated damages, reinstatement and other injunctive relief.

If you have questions, need additional information, or believe your employer has violated any provision of this law, please contact your employer, visit the City of San Diego Minimum Wage Enforcement Office website at <https://www.sandiego.gov/treasurer/minimum-wage-program> or contact the City of San Diego's Minimum Wage Program at (619) 615-1565 or email at [SDMinWage@sandiego.gov](mailto:SDMinWage@sandiego.gov).