



Legal Alert: NYC Paid Sick Time Law Amended to Cover Employers With As Few As Five Employees

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Stephen E. Zweig

Executive Summary: On February 26, 2014, the New York City Council passed an amended version of the New York City Earned Sick Time Act. This amended version, effective April 1, 2014, requires that companies with as few as five employees provide at least 40 hours of paid sick time per year. **Note:** *The original version of the Act only covered employers with 15 or more employees and provided a staggered, gradual roll-out.*

Here's what businesses need to know to comply with the new law:

Coverage of the Act

Employers with five employees or more who work at least 80 hours in a calendar year must provide these employees with paid sick time. **Note:** *Companies with fewer than five employees who work at least 80 hours in a calendar year must provide these employees with unpaid sick time in accordance with the requirements of the Act.*

Eligible Employees

Employees who work at least 80 hours in a calendar year in New York City are eligible to accrue paid sick time.

Accrual of Paid Sick Time

Eligible employees will accrue one hour of paid sick time for every 30 hours of work to a maximum of 40 hours of paid sick time per year. **Note:** *Accrual begins on the employee's date of hire.*

Usage of Paid Sick Time

Employees may not use accrued paid sick time until they have been employed 120 days with the employer. If an employee is absent for three or more consecutive days, employers may require reasonable documentation (e.g. a doctor's note) that the paid sick time was used for a permitted purpose. Paid sick time may be used for a broad range of reasons, including: mental or physical illness, injury, or need for medical diagnosis; preventative medical care; care of a family member who needs medical diagnosis, care or treatment; closure of the employee's workplace; or need to care for a child whose school has been closed due to a public health emergency. **Note:** *The definition of "family member" includes an employee's child, spouse, domestic partner, parent, sibling (including half-siblings, step-siblings, and siblings related through adoption), grandchild or grandparent, or the child or parent of the employee's spouse or domestic partner.*



Carry-Over and Payout of Paid Sick Time

Employers have a choice. They must either carry over an employee's accrued and unused sick time from one calendar year to the next or pay it out at the end of the calendar year. Unused paid sick time need not be paid out upon an employee's termination. **Note:** *An employer is not required to pay for more than 40 hours of sick time in a calendar year, even if the employee accrues an additional 40 hours of sick time in the next calendar year.*

Effect on Existing Leave Policies

The Act does not require employers to provide additional paid sick time if their existing paid leave policy (regardless of whether leave is called vacation, sick, personal, or paid time off) meets the requirements of the Act and allows employees to take sick time under the circumstances required in the Act.

Exception for Unionized Employers

Employers covered by a valid collective bargaining agreement in effect on April 1, 2014 are exempt from complying with the Act until the termination date of the collective bargaining agreement.

Notice and Recordkeeping Requirements

Employers must provide employees with written notice of their right to paid sick time when their employment begins. Notice must be given in English and the primary language spoken by the employee and must inform the employee of the right to paid sick time free from retaliation by the employer. Employers must maintain records of paid sick time taken by employees for at least three years.

Enforcement of the Act

Employers are not permitted to fire or otherwise retaliate against employees who use paid sick time. The Act will be enforced by the Department of Consumer Affairs or another agency as designated by the Mayor.

With the Act taking effect in a little over two weeks, covered employers should review and revise their existing time off policies immediately. If you have any questions regarding this Alert or amendments to your current leave policies, please contact the author, [Stephen Zweig](#), Managing Partner of FordHarrison's New York City office, at szweig@fordharrison.com.