

OUR INSIGHTS

Elizabeth Becomes the Tenth New Jersey City to Require Paid Sick Leave

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On November 3, 2015, voters in the City of Elizabeth approved a paid sick leave ordinance, making it the tenth municipality in the State of New Jersey to require paid sick leave. The ordinance, which goes into effect on March 2, 2016 (120 days after voter approval) is nearly identical to sick leave ordinances already passed in the cities of [Passaic](#), [East Orange](#), [Paterson](#), [Irvington](#), [Montclair](#), [Trenton](#), and [Bloomfield](#). Each of these ordinances closely tracks, but is not identical to [Newark's paid sick leave ordinance](#), while [Jersey City's sick leave ordinance](#) does not track Newark's ordinance.

Specifically, the Elizabeth ordinance requires all private-sector employers to allow those employees who work in Elizabeth for at least 80 hours per year to accrue paid sick leave at a rate of one hour of paid sick time for every 30 hours worked. Employers with 10 or more employees must provide up to 40 hours of accrued paid sick leave each calendar year, while employers with fewer than 10 employees must provide up to 24 hours of accrued paid sick time in a calendar year. Employees who work in the food service, child care, or home health care industries are entitled to up to 40 hours of accrued paid sick leave each year.

Like its counterparts in [Passaic](#), [East Orange](#), [Paterson](#), [Irvington](#), [Montclair](#), [Trenton](#), and [Bloomfield](#), the Elizabeth ordinance (1) allows accrued sick time to be used in either hourly increments or the smallest increment that the employer's payroll system uses to account for absences or use of other time, and (2) allows employers to require reasonable documentation signed by a healthcare professional substantiating any paid sick leave taken for three consecutive days or instances. The ordinance prohibits employers from requiring that the documentation explain the nature of the illness. Under certain circumstances, the ordinance does not apply to employees covered by a collective bargaining agreement that expressly waives the right to paid sick leave in clear and unambiguous terms.

Aside from providing paid sick leave, employers affected by Elizabeth's ordinance (as well as those in [Passaic](#), [East Orange](#), [Paterson](#), [Irvington](#), [Montclair](#), [Trenton](#), and [Bloomfield](#)) must also provide all covered employees with written notice explaining their rights under the ordinance upon hire or, for current employees, as soon as practicable following the law's effective date. Employers must also display a poster (which is not yet available) informing employees of their rights under the ordinance. The ordinance also requires employers to maintain

adequate records documenting the amount of hours worked by each eligible employee and the amount of sick leave taken. Potential penalties for violations of the law include a fine, payment of any sick leave unlawfully withheld, restitution, reinstatement, and injunctive or declaratory relief.

For the status of bills to enact a *statewide* paid sick leave law, see our August 2015 article, "[Disagreement Between State Senate and Assembly Stalls Paid Sick Leave Bill.](#)"

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Steven J. Luckner is a shareholder in the firm's Morristown office where his practice focuses on the defense of cases involving allegations of wrongful discharge, sexual harassment, age, race, sex, religious, disability discrimination, whistle-blower and other statutory claims. Mr. Luckner also has experience in the defense of wage and hour claims under both the Federal Fair Labor Standards Act and various state laws. Mr. Luckner prosecutes and defends cases involving post-employment...

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Mark has a diverse litigation and counseling practice representing both private and public sector employers. For more than 25 years he has been defending employers in discrimination, harassment, wrongful termination, retaliation, breach of contract, wage and hour, and other employment-related cases before state and federal courts, administrative agencies and arbitration tribunals. Mark also provides counseling and compliance advice to employers with respect to the full spectrum of employment...

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Ms. Merced previously worked as a law clerk to the Honorable Bernadette N. DeCastro in the Civil Division of the Superior Court of New Jersey – Hudson County. While a law clerk, Ms. Merced handled a diverse caseload, including employment law cases requiring determinations as to the discoverability of certain documents. Ms. Merced has a B.S. in Industrial and Labor Relations from Cornell University and was selected to the Order of Omega, Greek National Honor Society, a leadership honor society...
