



2.12.2015 Mandatory Sick Leave Becomes the Law in Philadelphia

When do employers within the City of Philadelphia need to be in compliance: 90 days after Bill went into effect

What Bill requires: The Bill requires employers with 10 or more employees, working in Philadelphia, to provide paid sick leave. Employers with less than 10 employees (for at least 40 weeks in a calendar year) are required to provide unpaid sick leave.

Next Steps for Employers... What is now required?

- Post the new Ordinance where all other labor posters are posted. If more than 5% of your employees speak a language other than English, be sure to post the Ordinance in both English and the other language (City of Philadelphia will be releasing Ordinance poster shortly); and
- Update Employee Handbooks to reflect compliance with the Ordinance; and
- Update timekeeping systems to ensure hours worked by employees are recorded, sick hours taken are recorded and any compensation paid as sick time is tracked. It will be important to be able to easily run time keeping reports if there are questions about sick pay being paid to employees.
- Maintain all time off/sick time requests/compensation paid as sick hours for those two years.

Paid v. Unpaid Sick Leave

How to determine if paid sick hours are to be provided: In determining whether your Company meets the 10-employee threshold, requiring you to provide paid sick leave, you will need to determine which employees: “performing work for compensation on a full-time, part-time, or temporary basis.” These are the employees considered eligible under the 10-employee threshold. In other words, if someone is being paid to work, they count toward the threshold.

Accruing Sick Hours

Employers must provide for the accrual of at least one (1) hour of sick time for every 40 hours an employee works in Philadelphia. The Bill caps the sick time accrual at 40 hours per calendar year or 5 days (unless the employer voluntarily elects to provide more than 40 hours).

New Hires:

- Sick time begins to accrue immediately upon hire; and
- Employees are eligible to begin using accrued sick time after 90 days of employment, and can use sick time as it is accrued

Current Employees:

- Sick time begins accruing after 90 days from the date the Bill went into effect

Reasons an employee can use Sick Time

Employers must allow covered employees to use sick time to attend to their own mental or physical illness, injury or health condition (including both acute and preventive care), or that of a family member. “Family member” is defined broadly to include children (including foster children and stepchildren), parents (including foster parents and stepparents), spouses, grandparents, grandchildren, siblings (including foster siblings and spouses of siblings), and domestic/life partners.

Additionally, sick leave may be used for absences necessitated by domestic abuse, sexual assault or stalking suffered by the employee or his/her family member if the time is used to obtain medical attention, services from a victim services organization, counseling, relocation, or legal services.

Other policy provisions employers should consider

Carry Over:

Employees can carry unused sick time over from one calendar year to the next; but at any time an employer can cap the amount of sick hours an employee can have in their sick bank. For example, if an employee carried over 32 sick hours from one calendar year into the next-during the next calendar year when the employee gets to 40 accrued/unused sick hours, their accrual will stop until they use some of their hours. (Employers can put a policy in place that employees can only accrue up to 40 sick hours and have a total of 40 sick hours in their bank at any one time.)

Termination:

Unused/accrued sick hours are not paid out at the time of termination.

Coverage while using sick hours:

Employers may not require employees using sick time to search for or find someone to cover his/her hours.

Submitting for sick time/accounting for sick time off:

- Employers can require employees to complete a Time Off Request Form when the employee has advance notice he/she will need to be off
- If an employee does not know in advance that they will be taking off, they are required to notify their manager prior to their scheduled shift starts of their absence.
- On their return to work, employers can require employees to submit a Time Off Request form confirming the sick hours they used
- Employers can require employees taking two consecutive days of sick leave to provide documentation on their return proving that the time off is for a covered purpose.

Who Is NOT considered an Employee through the Bill?

The following employees are not included in the definition of “employee,” and therefore are not entitled to sick leave under the ordinance: independent contractors, seasonal workers, adjunct professors, employees hired for a term of less than six months, interns, pool employees, state and federal employees, and employees covered by a collective bargaining agreement. While these individuals are not entitled to paid sick leave under the ordinance, they do count toward the 10-employee threshold.