

NYC'S PAID SICK LEAVE LAW

TOGETHER WE CAN KEEP BUSINESSES STRONG
AND KEEP NEW YORKERS HEALTHY

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Department of
Consumer Affairs



“The benefits of paid sick leave extend far beyond the positive impact on individual families. It's also about making our businesses run better, and protecting the health and welfare of their customers.”

- Mayor Bill de Blasio

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NYC
Bill de Blasio
Mayor

Department of
Consumer Affairs

WHAT WE WILL COVER

- Brief introduction
- What does the law provide?
- Who is covered under the law?
- Notice of Employee Rights
- How does sick leave accrue?
- For what purposes can employees use sick leave?
- Compliance
- Q & A

BRIEF INTRODUCTION

- NYC is one of 7 jurisdictions with a law requiring employers to provide sick leave.
- More than 1 million NYC employees will now have the right to sick leave.

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BRIEF INTRODUCTION

- The Department of Consumer Affairs (DCA) oversees implementation and enforcement of the Earned Sick Time Act (Paid Sick Leave Law).
- Employers and employees can visit nyc.gov/PaidSickLeave or call **311** for the required Notice of Employee Rights, one-page overviews, FAQs, and training events.

WHAT DOES THE LAW PROVIDE?

- Under the law, employees have the right to use sick leave for the care and treatment of themselves or a family member.
- The law recognizes the following as a family member:
 - Child (biological, adopted, or foster child; legal ward; child of an employee standing *in loco parentis*)
 - Grandchild
 - Spouse
 - Domestic Partner
 - Parent
 - Grandparent
 - Child or parent of an employee's spouse or domestic partner
 - Sibling (including a half, adopted, or step sibling)

WHAT DOES THE LAW PROVIDE?

- Employers with 5 or more employees who work more than 80 hours per calendar year in NYC must provide **paid** sick leave.
- Employers with 1-4 employees who work more than 80 hours per calendar year in NYC must provide **unpaid** sick leave.

WHAT DOES THE LAW PROVIDE?

- **If you are a new business or the number of employees changes every week:**

Existing employers <i>(Operating more than 1 year as of April 1, 2014):</i>	New employers <i>(Operating less than 1 year as of April 1, 2014):</i>
Count average number of employees paid per week during the prior calendar year.	Count average number of employees paid per week during first 80 days of operation.

WHAT DOES THE LAW PROVIDE?

- An employer with 1 or more domestic workers who have worked for the employer for at least 1 year must provide **2 days of paid sick leave**.
 - Domestic worker(s) must work more than 80 hours per calendar year.
 - **Definition:** “...person employed in a home or residence for the purpose of caring for a child, serving as a companion for a sick, convalescing or elderly person, housekeeping, or for any other domestic service purpose.” – NYS Labor Law
- City leave is in addition to **3 days of paid rest** guaranteed under NYS Labor Law.

WHO IS COVERED UNDER THE LAW?

- The law covers:
 - Full-time employees
 - Part-time employees
 - Transitional jobs program employees
 - Undocumented employees
 - Employees who are family members but not owners
 - Employees who live outside of NYC but work in NYC

WHO IS NOT COVERED UNDER THE LAW?

- The law does *not* cover:
 - Employees who work 80 hours or less a calendar year in NYC
 - Students in federal work study programs
 - Employees whose work is compensated by qualified scholarship programs
 - Employees of government agencies
 - Participants in Work Experience Programs (WEP)
 - Independent contractors

CURRENT COLLECTIVE BARGAINING AGREEMENTS

- The law takes effect for employees covered by a valid collective bargaining agreement that is in effect on April 1, 2014 when the agreement ends.

NEW COLLECTIVE BARGAINING AGREEMENTS

- The law does not apply to certain employees covered by collective bargaining agreements entered into after April 1, 2014.

For most employees:	For employees in the grocery or construction industries:
Agreement must expressly waive the law's provisions and provide comparable benefit.	Agreement must expressly waive the law's provisions but does not have to provide comparable benefit.

NOTICE OF EMPLOYEE RIGHTS

- Employers must give covered employees the Notice of Employee Rights created by DCA.

Existing employees <i>(Already employed before April 1, 2014):</i>	New employees <i>(First employed on or after April 1, 2014):</i>
Must get Notice by May 1.	Must get Notice on first day of employment.

- Employee must get Notice in English and, if available on DCA website, the employee's primary language.
- Notice is available in English, Spanish, Arabic, Bengali, Chinese, French-Creole, Italian, Korean, and Russian.

NOTICE OF EMPLOYEE RIGHTS

- Employers are not required to keep or maintain a copy of the Notice signed by the employee; however, **saving signed copies is recommended for record keeping.**
- Employers can give employees the Notice in person, by regular mail, or by email. Save email receipts.

NOTICE OF EMPLOYEE RIGHTS

Includes:

- Accrual rate and information on how to use sick leave.
- Employer's calendar year.
- Right to be free from retaliation.
- Right to file a complaint.

NOTICE OF EMPLOYEE RIGHTS

Under New York City's Earned Sick Time Act (Paid Sick Leave Law), certain employers must give their employees sick leave. Go to nyc.gov/PaidSickLeave to learn which employees are covered by the law.

Employers with five or more employees who are hired to work more than 80 hours a calendar year in New York City must provide paid sick leave. Empl

Employers who have one or more dom more than 80 hours a calendar year mu

By law, employers who must provide begin employment and to existing en

YOU HAVE A RIGHT TO SICK TREATMENT OF YOURSELF

AMOUNT OF SICK LEAVE:

- Your employer must provide up year is:

Start of Calendar Year: _____

- **Domestic workers:** Your employer paid rest to which you are entitl "Domestic Workers' Bill of Right

RATE OF ACCRUAL:

- You accrue sick leave at the rat sick leave per calendar year.
- **Domestic workers:** You must h paid sick leave under City law. I

DATE ACCRUAL BEGINS:

You begin to accrue sick leave on April

Exception: If you are covered by a colle accrue sick leave under City law begin

DATE SICK LEAVE IS AVAILABLE FOR

- You can begin using sick leave later.
- **Domestic workers:** DCA will pr nyc.gov/PaidSickLeave.

ACCEPTABLE REASONS TO USE SICK

You can use sick leave when:

- You have a mental or physical ill or treatment of your mental or p
- You must care for a family mem physical illness, injury, or health
- Your employer's business close school or child care provider ck

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FAMILY MEMBERS:

The law recognizes the following as family members:

- Child (biological, adopted, or foster child; legal ward; child of an employee standing in loco parentis)
- Grandchild
- Spouse
- Domestic partner
- Parent
- Grandparent
- Child or parent of an employee's spouse or domestic partner
- Sibling (including a half, adopted, or step sibling)

ADVANCE NOTICE:

If the need is foreseeable, your employer can require up to seven days advance notice of your intention to use sick leave. If the need is unforeseeable, your employer may require you to give notice as soon as practicable.

DOCUMENTATION:

Your employer can require documentation from a licensed health care provider if you use more than three consecutive workdays as sick leave. The Paid Sick Leave Law prohibits employers from requiring the health care provider to specify the medical reason for sick leave. Disclosure may be required by other laws.

UNUSED SICK LEAVE:

Up to 40 hours of unused sick leave can be carried over to the next calendar year. However, your employer is only required to let you use up to 40 hours of sick leave per calendar year.

YOU HAVE A RIGHT TO BE FREE FROM RETALIATION FROM YOUR EMPLOYER FOR USING SICK LEAVE.

Your employer cannot retaliate against you for:

- Requesting and using sick leave.
- Filing a complaint for alleged violations of the law with DCA.
- Communicating with any person, including coworkers, about any violation of the law.
- Participating in a court proceeding regarding an alleged violation of the law.
- Informing another person of that person's potential rights.

Retaliation includes any threat, discipline, discharge, demotion, suspension, or reduction in your hours, or any other adverse employment action against you for exercising or attempting to exercise any right guaranteed under the law.

YOU HAVE A RIGHT TO FILE A COMPLAINT.

You can file a complaint with DCA. To get the complaint form, go online to nyc.gov/PaidSickLeave or contact 311 (212-NEW-YORK outside NYC).

DCA will conduct an investigation and try to mediate your complaint. DCA will keep your identity confidential unless disclosure is necessary to conduct the investigation, mediate the complaint, or is required by law.

Keep a copy of this notice and all documents that show your amount of sick leave and your sick leave accrual and use.

Note: The Earned Sick Time Act sets the minimum requirements for sick leave. Your employer's leave policies may already meet or exceed the requirements of the law.

You have a right to be given this notice in English and, if available on the DCA website, your primary language.

For more information, including Frequently Asked Questions, go to nyc.gov/PaidSickLeave or call 311 and ask for information about Paid Sick Leave.



Department of
Consumer Affairs
Bill de Blasio
Mayor
Julie March
Commissioner

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HOW DOES SICK LEAVE ACCRUE?

- Employees who work more than 80 hours a calendar year accrue 1 hour of sick leave for every 30 hours worked.

	Date Accrual Begins	Date Accrued Sick Leave Available for Use
Existing employee	April 1, 2014	July 30, 2014
New employee	First day of employment	120 days after first day of employment

- A calendar year is a consecutive 12-month period of time determined by employer.

HOW DOES SICK LEAVE ACCRUE?

- Employees can carry over unused sick leave to the next calendar year.
- Employers are only required to give up to 40 hours of sick leave per calendar year.

RATE OF PAID SICK LEAVE

- Employers with 5 or more employees pay employees at their regular hourly rate but no less than \$8 per hour (minimum wage).
 - This includes employees whose salary is based on tips or gratuity.

FOR WHAT PURPOSES CAN EMPLOYEES USE SICK LEAVE?

- Employees can use leave for themselves or a family member for:
 - Mental or physical illness, injury, or health condition.
 - Medical diagnosis, care, or treatment of above.
 - Preventive medical care.
- Business closes due to a public health emergency.
- Care of child whose school or child care provider closed due to a public health emergency.

FOR WHAT PURPOSES CAN EMPLOYEES USE SICK LEAVE?

- Employers can require documentation from a licensed health care provider if employee uses more than 3 consecutive workdays as sick leave.
 - Employers cannot require provider to specify the medical reason for sick leave.
 - Employers must keep any health related information confidential.

FOR WHAT PURPOSES CAN EMPLOYEES USE SICK LEAVE?

- Employer can require up to 7 days advance notice when employees **know** they will be using sick leave.
 - *Example: scheduled doctor's appointment*
- Employer may require employees to give notice as soon as practicable (reasonable) when employees **do not know** they will be using sick leave.
 - *Example: accident*

FOR WHAT PURPOSES CAN EMPLOYEES USE SICK LEAVE?

- An employer can set reasonable minimum increments for the use of sick leave, but **the minimum cannot be more than 4 hours per day unless otherwise permitted by state or federal law.**

OTHER LEAVE POLICIES

- The Paid Sick Leave Law sets the **minimum requirements** for sick leave.
- An employer's existing leave policies may already meet or exceed the requirements of the law.
 - Example: If employer gives employees paid leave that employees can use for sick leave under the same conditions as the City's Paid Sick Leave Law, the employer does not have to give additional time off.

COMPLIANCE

DCA is coordinating an extensive public education and outreach campaign to help employers and employees understand their responsibilities and rights.

- Employers must keep and maintain records documenting compliance with the law for at least 3 years.
 - Employers must keep any health related information confidential.

COMPLIANCE

- Employees have 2 years to file a complaint with DCA.
- Employers cannot retaliate against employees for filing complaints or asserting their rights under the law.
- DCA will mediate complaints to resolve them. Employers must respond to DCA's written request for information within 30 days.
- DCA can issue a violation if mediation is not successful.

RELIEF UNDER THE LAW

- Under the law, a judge may order the following relief:
 - Full compensation, including lost wages and benefits, \$500 and appropriate equitable relief for each time employer punished employee for taking sick leave (not including termination).
 - Full compensation, including lost wages and benefits, \$2,500 and appropriate equitable relief (including reinstatement) for each time employer fires employee for taking sick leave.
 - 3x the wages employee should have been paid for each time employee took sick leave but wasn't paid or \$250, whichever is greater.
 - \$500 for each time employee was denied sick leave or was required to find replacement worker, or each time employee was required to work additional hours without mutual consent.

PENALTIES UNDER THE LAW

- The law outlines the following maximum penalties:
 - \$500 for first violation.
 - Up to \$750 for a second violation within 2 years of a prior violation.
 - Up to \$1,000 for subsequent violations that occur within 2 years of any previous violation.
 - Up to \$50 for each employee who was not given the required written notice.

IMPORTANT NOTE ABOUT PENALTIES

- All employers must comply with the law starting **April 1, 2014**.
- Up to **October 1, 2014**, certain employers will have the opportunity to resolve complaints without a penalty but must provide relief to employees:
 - Employers with 1-19 employees
 - Manufacturing businesses

APRIL 29 PUBLIC HEARING AND OPPORTUNITY TO COMMENT

- DCA held a public hearing on **Tuesday, April 29** on proposed Rules to clarify provisions in the Paid Sick Leave Law.
- DCA will be reviewing testimony.
- Monitor nyc.gov/PaidSickLeave for updates and final Rules.

DCA IS HERE TO HELP

- **For Paid Sick Leave materials:**
 - Visit nyc.gov/PaidSickLeave
 - Contact **311** (212-NEW-YORK outside NYC)
- **For a DCA representative:**
 - Call **311** and ask for information about Paid Sick Leave
 - Email PaidSickLeave@dca.nyc.gov
 - Use online Live Chat at nyc.gov/BusinessToolbox (*Businesses only*)
- **For Paid Sick Leave trainings in all 5 boroughs:**
 - Visit nyc.gov/PaidSickLeave for a list of scheduled events
 - Email PaidSickLeave@dca.nyc.gov

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DCA IS HERE TO HELP

- **For general inquiries:**

- Visit nyc.gov/consumers
- Contact **311** (212-NEW-YORK outside NYC)
- Use online Live Chat at nyc.gov/BusinessToolbox (*Businesses only*)

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QUESTIONS?

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NYC.gov/PaidSickLeave

PaidSickLeave@dca.nyc.gov

CONTACT 311 (212-NEW-YORK)

YouTube   Instagram

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