

Paid Sick Leave Law Comparison

City of New York (2014 Law)

Westchester County (Proposed Law)

Who is covered?	Workers who have worked within NYC for more than 80 hours in a calendar year are covered. Domestic workers will receive some paid sick time.	Workers who have worked within Westchester County for more than 80 hours in a calendar year are covered. Domestic workers are also covered, as are employees of Westchester County.
Who is <u>not</u> covered?	Work-study students, certain hourly speech/physical/occupational therapists, independent contractors, and government employees are exempted.	Work-study students, independent contractors, and government employees (except for employees of Westchester County) are exempted.
Can sick time be used to care for loved ones?	Yes: children; spouses; registered domestic partners; parents; grandchildren; grandparents; siblings; and the parents of a spouse or domestic partner	Yes: children; spouses; registered domestic partners; parents; grandchildren; grandparents; siblings; and the parents of a spouse or domestic partner
How is "child" defined?	Biological, adopted, or foster children, legal wards, or the child of a worker standing in loco parentis to the child	Biological, adopted, or foster children, legal wards, or the child of a worker standing in loco parentis to the child
Are specific "safe time" purposes included? Can sick time be used for specific "safe time" purposes (related to domestic violence, sexual assault, or stalking)?	No	Yes
Can sick time be used when a worker's place of work or child's school/place of care is closed by public health officials for a public health emergency?	Yes	Yes
Can sick time be used under the law to bond with a new child or deal with a family members's death?	No	No
Rate at which workers earn paid sick time?	1 hour for every 30 hours worked (for both paid and unpaid sick time, as described below)	1 hour for every 30 hours worked (for both paid and unpaid sick time, as described below)
Amount of paid sick time that can be earned under the law per year? (Note: All of these paid sick time laws make it clear that these laws establish a minimum requirement, and employers can provide greater or more generous paid sick time benefits to their workers.)	Workers in businesses with 5 or more workers; up to 40 hours a year. Workers in businesses with fewer than 5 workers up to 40 hours of unpaid sick time a year. All workers in certain chain businesses or franchise will be counted together to determine size.	Workers in businesses with 5 or more workers; up to 40 hours a year. Workers in businesses with fewer than 5 workers up to 40 hours of unpaid sick time a year. All workers in certain chain businesses or franchise will be counted together to determine size.

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When do workers begin to earn paid sick time?	At the commencement of employment, but workers aren't entitled of to use sick time until the 120th calendar day following commencement of employment.	At the commencement of employment, but sick time can't be used until the 90th calendar day following commencement of employment.
Does unused sick time carry forward to the subsequent year?	Workers are entitled to carry forward up to 40 hours of unused sick time, but employers aren't required to allow use of more than 40 hours of sick time a year. Carry forward is not required if a worker is paid for unused sick time at the end of the year and the employer provides the worker with an amount of paid sick time that meets or exceeds the laws's requiremnt on the first day of the subsequent year.	Workers are entitled to carry forward up to 40 hours of unused sick time, but employers aren't required to allow use of more than 40 hours of sick time a year. Carry forward is not required if a worker is paid for unused sick time at the end of the year and the employer provides the worker with an amount of paid sick time that meets or exceeds the laws's requiremnt on the first day of the subsequent year.
Are there waivers/exemptions for workers covered by a valid Collective Bargaining Agreent (CBA)?	The law's provisions won't apply to workers in the construction or grocery industry covered by CBA if the law's provisions are expressly waived in the CBA. The law's provisions won't apply to other workers covered by a CBA if the provisions are expressly waived in the CBA and the CBA provides a comparable benefit.	The law's provisions won't apply to workers in the construction or grocery industry covered by CBA if the law's provisions are expressly waived in the CBA. The law's provisions won't apply to other workers covered by a CBA if the provisions are expressly waived in the CBA and the CBA provides a comparable benefit.
Private Right of Action to go to Court?	No	Yes
What Agency or Official Enforces the Bill?	New York City Department of Consumer Affairs	Westchester County Human Rights Division
2016 City of New York Amendments		
Temporary Firms	The amendments define a "temporary help firm" as an "organization that recruits and hires its own employees and assigns those employees to perform work or services for another organization." It is up to such temporary firms to make sure they are complying with the requirements of New York City's Earned Sick Time Act when it comes to the workers they are placing.	No Corresponding Legislative Language

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<p>Clarifying How Businesses Count Their Workers</p>	<p>Under New York City's paid sick leave requirements, for-profit and nonprofit employers with five or more workers must provide paid sick leave. Those with four or fewer workers still must allow sick leave, but are not required to pay workers during that time. The new amendments clarify how to count workers to determine whether a worker should be paid for sick time. The amended rules state it should be based on counting the number of employees performing work for an employer for compensation per week at the time the employee uses sick time. If the number of employees fluctuates, it should be calculated for the current calendar year based on the average number of employees per week during the previous calendar year. This method does not apply to employers who have less than a year in business.</p>	<p>Under Westchester County's paid sick leave requirements, employers with five or more workers must provide paid sick leave. Those with four or fewer workers still must allow sick leave, but are not required to pay workers during that time.</p>
<p>Minimum Increments</p>	<p>The recent amendments also provide more clarity on the minimum increments of sick time an employer may require an employee to use. Under the previous rules, the minimum increment could not go beyond four hours. Now, employers are also allowed to set fixed periods of 30 minutes or any smaller amount of time for the use of accrued sick time beyond the minimum increment.</p>	<p>Under Westchester County's paid sick leave requirements, employers with five or more workers must provide paid sick leave. Those with four or fewer workers still must allow sick leave, but are not required to pay workers during that time.</p>
<p>Record Keeping Requirements</p>	<p>The amended Earned Sick Time Act clarifies that employers need to keep three years' worth of records demonstrating their compliance with the Act. An employer must maintain records for each employee, showing information such as name, phone number, address, the time period they were employed at the business, their pay rate, weekly hours worked, sick time taken, and sick pay provided. The employer must also retain details regarding when a copy of the Notice of Rights was given to the worker, and be able to provide proof that the employee actually received it.</p>	<p>No Corresponding Legislative Language</p>
<p>Written Policies</p>	<p>Employers were already required to distribute a Notice of Right under the Earned Sick Time Act. Now the city requires employers to provide their workers with their own written sick time policies as well. The written policies, which may be posted or distributed, should include the employer's method of calculating sick time under the rules of the Earned Sick Time Act, as well as the employer's policies regarding the use of sick time. An employer cannot deny a worker sick time or payment for sick time where permissible under the law and based on its own policy if it has not provided a written copy of the policy to the worker.</p>	<p>No Corresponding Legislative Language</p>

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Additional Legislative Highlights		
Employer Records	Employer Records -- retaining records documenting hours worked by employees and earned paid sick time taken by employees, for a period of three years. Law spells-out details of maintaining employer records and "Appropriate Notice" in the absence of subpoena or document demand.	Employer Records -- retaining records documenting hours worked by employees and earned paid sick time taken by employees, for a period of three years.
Employee Abuse of Sick Time	An Employer make take disciplinary action, up to and including termination, against an employee who uses sick time for purposes other than those decribed in the Administrative Code.	No Corresponding Legislative Language
Documentation for earned paid sick time of more than 3 consecutive work days	No Corresponding Legislative Language	For earned paid sick time of more than 3 consecutive work days, an employer may require reasonable documentation that the earned paid sick time has been used.
Physical Location/Telecommuting	Individual performing work, including telecommuting, must be physically located in New York.	No Corresponding Legislative Language
Domestic Workers	Domestic Workers who have worked for the same employer for at least one year and who work more than 80 hours in a calendar year will be entitled to two days of paid sick time per year.	In addition to the paid day or days of rest to which a domestic worker is entitled pursuant to section 161 (1) of the labor law of New York, such domestic worker shall also be entitled to two days of earned paid sick time annually.
Loan	No Corresponding Legislative Language	At its discretion, an employer may loan earned paid sick time to an employee in advance of accrual by such employee.
Immigration Status	An employee is entitled to the protections of the Earned Sick Time Act regardless of immigration status.	No Corresponding Legislative Language
Overtime Rate of Pay	If the employee uses sick time during hours that would have been designated as overtime, the employer is not required to pay the overtime rate of pay.	No Corresponding Legislative Language
Minimum Wage	Under no circumstances can the employer pay the employee less than the minimum wage for paid sick time.	No Corresponding Legislative Language
Sicktime Payday	Sick time must be paid no later than the payday for the next regular payroll period beginning after the sick time was used by the employee.	No Corresponding Legislative Language
Piecework Basis Sick Time Accrual	For employees who are paid on a piecework basis, accrual of sick time is measured by the actual length of time spent performing work.	No Corresponding Legislative Language
Commission Basis Sick Time Accrual	For employees who are paid on a commission basis, accrual of sick time is measured by the actual length of time spent performing work.	No Corresponding Legislative Language
Sick Time Balance	If an employee's sick time balance exceeds 40 hours in a single calendar year, an employer is only required to allow the employee to use up to 40 hours in such calendar year.	Earned paid sick time shall be carried over to the following year.