


# PAID SICK LEAVE?

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The federal Family and Medical Leave Act requires “covered employers” to provide “eligible employ-

ees” with up to 12 weeks of unpaid leave for certain specified reasons, including the inability to work due to pregnancy or a serious medical condition. However, there is no federal law that requires private businesses to provide employees with paid sick leave. Many private businesses voluntarily offer employees paid sick leave as part of their benefits package in order to be competitive in the labor marketplace or because they feel it is the right thing to do. Employers that choose not to offer paid sick leave need to be mindful of applicable local and, in Connecticut, state laws.

#### **New York City’s Law**

A new law (Earned Sick Time Act) went into effect on April 1, 2014, in New York City that requires companies with five or more employees to provide up to five paid days off to workers if they, or a family member, become ill. A “family member” is defined as a child, spouse, domestic partner, parent, or the child or parent of a spouse or domestic partner, grandparent, grandchild, or sibling. Employees who work for covered employers accrue paid leave based on the number of hours worked (one hour of paid sick leave for every 30 hours worked—up to 40 hours per year). It is estimated that the new law will provide paid sick leave for the first time to approximately 1.2 million workers. The New York City law also provides paid leave if the business (or the school or place of care for an employee’s child) is closed due to a public health emergency. Businesses with one to four employees in New York City must provide employees with unpaid leave to the same extent that larger employers must provide paid leave.

A New York City employer must provide their workers with notice of the law and may not retaliate against an employee for exercising his or her rights under the law. Retaliation means threatening to or actually taking an adverse employment action against an employee. An employer that fails to follow the New York City law can be held liable for damages to the employee and subject to penalties that start at \$500 per violation and can increase to as much as \$1000 per violation.

#### **Other City Laws**

It appears that New York City has joined at least six other major U.S. cities in enacting paid sick leave laws. Other cities that have similar laws include: San Francisco (apparently the first to enact such a law in 2006), Seattle, Washington D.C., Newark, Jersey City, and Portland. If you are interested in learning more about the laws of these cities, you can review a summary at: [www.nationalpartnership.org/research-library/work-family/psd/paid-sick-days-statutes.pdf](http://www.nationalpartnership.org/research-library/work-family/psd/paid-sick-days-statutes.pdf).

#### **State Laws**

In 2012, Connecticut passed a state law requiring businesses with 50 or more employees to provide one hour of paid sick leave for every 40 hours worked by an employee, up to a maximum of 40 hours of paid sick leave per year. The Connecticut law is much more restrictive than the New York City law in that it only requires paid sick leave to an employee dealing with his or her own medical condition or the illness of a spouse or child only.

A number of states (California, Connecticut, Hawaii, Maine, Maryland, Wisconsin, Oregon, Washington, and Minnesota) have enacted laws that allow private sector employees who have paid sick leave to use them to care for ailing family members.

Some states have enacted specific “preemption” legislation that forbids municipalities from enacting their own paid leave laws. For example, the state of Wisconsin passed such a preemption law in response to a 2008 voter referendum in Milwaukee (with 69 percent



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of the vote) that would have mandated paid sick days for all workers in the city.

#### Government Employees

As taxpayers, it is interesting to note that the federal government provides 13 paid sick days each year to its employees to care for themselves or a family member. Considering there are more than 2.5 million federal workers, the cost of this benefit is astronomical. Most, if not all, state governments provide some paid sick leave to state employees.

#### Recommendations and Conclusion

Even if not required by applicable law, private employers might consider offering paid leave in order to better compete in the labor marketplace and because it is the right thing to do if you value your workers. My personal opinion is that it is preferable to have a single paid time off policy that covers an employee's vacation and paid sick days, rather than offering separate vacation and sick days. By offering a single paid time off "bank," an employer does not have to monitor whether an employee is being truthful about why the employee is taking time off, and the employee does not have to reveal matters of a personal nature that he or she may want to keep private. Private employers should review their paid sick leave policies with legal counsel to ensure they comply with any applicable local or state laws.

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