

## New NY Law Requires Employers to Give Sick Leave to All Workers

A new state law requires private employers in New York to provide at least 40 hours of sick leave each year to all their workers, including part-timers. The sick leave requirement, modeled after one in place in New York City since 2014, guarantees for the first time that the vast majority of workers in the state have the right to paid sick time when they or a family member are ill. It also prohibits employers from firing workers for taking sick time.

Many employers in New York provide sick time for full-time employees, but part-time workers are much less likely to receive the benefit. The Community Service Society, a New York City organization that advocates for low income New Yorkers, estimates that the new law will benefit 1.3 million workers-many of them low wage, part-time employees-who are not now provided sick time by their employers.

Nancy Rankin, Vice President for policy research and advocacy for the Community Service Society, said providing sick leave is especially important during the coronavirus pandemic. "You don't want people who are sick going into work," she said. "A lot of these people with part-time jobs are working as cashiers in food service and retail and they're coming into a lot of close contact with the public."

The legislation was passed earlier this year as part of the state's 2020 budget and signed into law by Governor Andrew Cuomo on April 3. It does not apply to government agencies. Anyone working for a private employer in New York will be entitled to begin accruing sick leave time starting September 30, 2020 for use starting January 1, 2021.

Private employers are required to provide up to 40 hours or 56 hours of sick leave annually, depending on the employer's size:

- Employers with four or fewer employees and a net income of \$1 million or less must provide 40 hours of unpaid sick time.
- Employers with four or fewer employees and a net income greater than \$1 million must provide 40 hours of paid sick time.
- Employers with 5 to 99 employees must provide 40 hours of paid sick time, regardless of the company's net income.
- Employers with 100 or more workers must provide up to 56 hours or seven days of paid sick time.

Andrew Bobrek, an attorney with Bond, Schoeneck & King law firm in Syracuse, said the new law contains no exceptions for part-time, temporary, casual, student or seasonal employees. "It's very general," said Bobrek who recently hosted a webinar on the law for employers. Companies should update their existing sick time policies to make sure they comply with the new law, he said.

Workers are entitled to accrue the sick time at a rate of one hour for every 30 hours worked, but employers may “front load” 40 or 56 hours of sick time for its workers at the start of the year if they wish. Some companies provide employees with “paid time off” that can be used as either vacation or sick time. Those hours count toward the law’s sick time requirements, but companies must make sure that their PTO policies also meet the law’s accrual, carryover and use requirements, said Bobrek.

Employers must allow workers to carry over unused sick time to the following year, but they do not have to pay them for unused sick time once they leave the company’s employment. An employer may set a minimum increment at which leave must be used, but the minimum may not exceed four hours. Workers may use the sick time for any mental or physical illness, injury or health condition of the employee or an employee’s family member, regardless of whether the illness has been diagnosed or requires immediate medical care.

In addition, the sick time can be used when an employee or a family member has been the victim of domestic violence, a family offense, sexual offense, stalking or human trafficking. Companies cannot require an employee to reveal details of their illness or require a doctor’s note or documentation. New York joins 12 other states and the District of Columbia in requiring employers to provide sick time. (The other states are Arizona, California, Colorado, Connecticut, Massachusetts, Maryland, Michigan, New Jersey, Oregon, Rhode Island, Vermont and Washington).

Source: By Rick Moriarty ([rmoriarty@syracuse.com](mailto:rmoriarty@syracuse.com))