

## Philadelphia Paid Sick Leave Law Takes Effect

Philadelphia's Promoting Healthy Families and Workplaces Ordinance enacted earlier this year took effect on May 13, triggering employee accruals of sick time and employer notice obligations. The new law requires employers with at least 10 employees to provide paid sick leave and smaller employers to provide unpaid leave. As Philadelphia joins a growing number of major cities with similar mandates, employers should review their current leave policies and procedures to ensure compliance.

In this article: [Background](#) | [Key Provisions](#) | [In Closing](#)

### Background

Since 2012, Philadelphia has required private-sector employers that do business with the city, hold city leases, or receive city subsidies to provide a minimum amount of sick time to their employees. (See our [August 3, 2012 For Your Information](#).) On February 12, 2015, Philadelphia Mayor Michael Nutter signed into law the [Promoting Healthy Families and Workplaces Ordinance](#), adding a new Chapter 9-4100 to the Philadelphia Code. (See our [For Your Information](#) from [February 25, 2015](#).)

The new law requires most employers within the city limits to offer eligible employees paid or unpaid sick leave, depending on the employers' size. When it took effect on May 13, Philadelphia joined a growing number of cities — including New York, Portland and Seattle — that have enacted paid sick leave laws. (See our [November 13, 2014 For Your Information](#).)



### Key Provisions

The new paid sick leave requirement generally applies to employers that employ 10 or more employees for at least 40 weeks in a calendar year, and to "chain establishments" with at least 15 establishments doing business under the same trade name, regardless of location and type of ownership. With limited exceptions, full- and part-time employees who work within the city limits for at least 40 hours in a year are covered by the new law. Employees who are not entitled to paid leave under the new law are entitled to unpaid time.

### Accruing Sick Time

On May 13 or the first day of employment (if later), employees will begin accruing a minimum of one hour of sick time for every 40 hours worked in Philadelphia, up to a maximum of 40 hours per calendar year. Employees who work for employers with 10 or more employees will accrue paid sick time while employees who work for smaller employers will accrue unpaid sick time under the same schedule.

### Using Accrued Time

Employees will be able to start using earned paid sick time 90 days after accrual begins. Accrued sick time may be taken in hourly increments or the smallest increment of time the employer's payroll system uses to account for absences.

Under the new law, employees may use their paid sick time for their own or a family member's (broadly defined): mental or physical illness, injury or health condition; preventive medical care; or medical diagnosis, care or treatment. Paid sick time may also be used for absences due to the employee's or family member's domestic abuse, sexual assault or stalking. Under certain circumstances, employees who have exhausted their paid sick time may take unpaid leave for qualifying reasons.

### Notice, Posting and Recordkeeping

The new law also requires employers to keep records related to sick time earned and used, and to provide notice to employees of their rights under the new law. Employers must maintain records of hours worked, sick time taken and payments made to employees for paid sick time for two years. Employers that fail to do so, or to allow access by the city's enforcement agency, will be presumed to be in violation of the law. Noncompliance with the notice and posting requirements may result in a civil fine of up to \$100 for each separate offense.

The ordinance requires employers to notify employees that they are entitled to sick time, the amount of sick time and the terms of its legal use. Notice may be provided in the form of workplace posters or by issuing individual written employee notices. Both the posters and the notices must be in English and any other primary language spoken by at least 5% of the employer's workforce. Employers are also required to provide notice of employee's rights under the ordinance in their employee handbooks.

Philadelphia's Managing Director's Office has now made available a poster employers may use to satisfy the notice and posting requirement. Employers can download versions of the poster summarizing employees' sick leave rights in English, Spanish, Russian, Chinese, Khmer and Vietnamese from its [website](#). Employers and employees can also submit questions and requests for further information online at [paysickleave@phila.gov](mailto:paysickleave@phila.gov).

**Comment.** As Philadelphia's sick leave ordinance took effect, the state legislature was considering preempting local leave laws. The state Senate has already passed a [bill](#) (SB 333) that would apply retroactively to January 1, 2015 to prevent Pennsylvania municipalities from imposing their own sick leave requirements on businesses. If the state House of Representatives passes the measure, Governor Tom Wolf is expected to veto it.

### Existing Leave Policies

Employers that already provide sick or other leave that satisfies the new requirements will not have to offer additional leave. Paid leave could include vacation, short-term disability benefits, floating holidays, parental leave, personal days or PTO that may be used as sick time.

## Enforcement

The ordinance provides for administrative, and in some circumstances judicial, relief from noncompliance with its requirements. An employee seeking to pursue a claim that an employer refused to provide earned sick time or retaliated against the employee for using it must first file an administrative complaint with the city agency charged with enforcing the local leave law. If not resolved by the agency, the city and aggrieved individuals may bring a civil action. Damages for violation may include unpaid sick time, lost wages and benefits, liquidated damages up to \$2,000, equitable relief (including reinstatement) and attorneys' fees.

The ordinance charged the mayor with designating a city agency to be responsible for its coordination, implementation, administration and enforcement. The poster issued by the city indicates that employees will be able to file complaints with a new agency — the Sick Leave Agency — after September 2015, but does not indicate how complaints may be made in the meantime. However, the ordinance would allow a court action to be brought without first filing an administrative complaint during the first 120 days after the law takes effect.

## In Closing

The new ordinance took effect on May 13, triggering employee accruals of sick time and employer obligations to provide employees notice of their rights under the new law. Employers that already provided sick time as well as those that are just beginning to provide sick time should review their leave policies and practices to ensure compliance.

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