



e-Alert

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Action Required: Paid Sick Leave Required for all New York State Employees

Background

On January 1, 2021, all employers in New York must provide their employees with sick leave, based on new legislation, [Senate Bill 7506B](#). However, employees **begin** accruing sick time on **September 30, 2020**.

Summary

Pay

Employers must pay employees at their regular wage rates or the applicable minimum wage, whichever compensation is greater.

Accrual

Starting on September 30, 2020, employers must grant at least one hour of sick time for every 30

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hours an employee works. On January 1, 2021, employers must allow their employees to begin using the accrued leave. Employers may frontload all available leave at the start of the calendar year.

Amount of Sick Leave

Senate Bill 7506B

Amount of sick leave

The amount of sick leave employers must provide, and whether it is paid or unpaid, depends on the size of the business and revenue in the previous tax year.

Employer Size	Amount of Leave Per Year	Paid or Unpaid?
4 or less employees (businesses with net income of \$1 million or less in the previous tax year)	40 hours	Unpaid
4 or less employees (business with net income over \$1 million in the previous tax year)	40 hours	Paid
5-99 employees	40 hours	Paid
100 or more employees	56 hours	Paid

Employers must use the calendar year to determine their number of employees. However, employers may choose to set a different consecutive 12-month period for purposes of leave accrual and use.

Use and Carryover

- Employers can set a reasonable minimum increment for sick time use; which cannot exceed four hours.
- Employees can carry over unused sick time into the following calendar year.
 - However, those with fewer than 100 employees may limit the use of sick leave to 40 hours per calendar year.
 - Employers with 100 or more employees can limit use to 56 hours per calendar year.
- The law does not require employers to pay out employees for unused sick time at the time of termination.

Reasons for Leave

Employees may request sick leave for the following reasons:

- For the employee's, or their family member's, mental or physical illness, injury, or health condition, regardless of whether such conditions are diagnosed or require medical care at the time of the request.

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- For the employee's, or their family member's, diagnosis, care, or treatment of a mental or physical illness, injury, or health condition, including preventative care.
- When the employee or their family member is a victim of domestic violence, a family offense, sexual offense, stalking, or human trafficking. Leave may be used to obtain services, participate in safety planning, relocate, meet with an attorney or social services provider, participate in civil or criminal proceedings, file a complaint with law enforcement, enroll their child in a new school, or take any other action to ensure their health and safety.

Family members include:

- Child (adopted, biological, or foster child; a legal ward; or a child of an employee standing in the place of a parent)
- Spouse or domestic partner and parent or child of an employee's spouse or domestic partner
- Parent (biological, foster, step, or adoptive parent; a legal guardian of an employee; or a person who stood in place of a parent when the employee was a minor child)
- Sibling
- Grandchild or grandparent

Recordkeeping

- Employers must keep records on file for at least six years indicating the amount of sick leave provided to each employee.
- They must also provide employees with a summary of the amount of sick leave earned and used in both the current calendar year and any previous calendar year(s) within three business days of an employee's verbal or written request.

Anti-retaliation

Employers may not retaliate against employees for using or requesting sick leave. Employers are also forbidden to request, as a condition of providing sick leave, the disclosure of an employee's, or their family member's, confidential medical information.

Job Reinstatement

Upon returning from sick leave, the employee must be reinstated to their previous position with the same pay and other terms and conditions of employment.

Interaction with Existing PTO Programs and Local Ordinances

An employer will not be required to provide additional leave if it has an existing sick leave or time off policy that provides employees with leave that meets or exceeds the accrual, carryover, and use requirements of Senate Bill 7506B.

In addition, New York State cities with populations of one million or more are permitted to enact their own local laws that meet or exceed the minimum requirements of Senate Bill 7506B. On January 1, 2021, any paid sick program enforced and employers in such jurisdictions will need to comply with both laws.

Employer Next Steps

- If you are an employer with employees in New York State, HR Knowledge recommends that you review existing policies to ensure compliance with the New York Paid Sick Leave law before the effective date of September 30, 2020.
 - If you are a Full-Service or Virtual HR client, we can assist you in updating your policies.
- If you would like to learn more about the New York Paid Sick Leave law, visit the New York State Senate website [here](#).

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