

Paid Sick and Safe Leave For New York City Employers

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New York State recently enacted a paid sick and safe leave law under which employees may start taking paid leave as of Jan. 1, 2021. New York City has had, since 2014, its own paid sick and safe leave law (New York City Earned Safe and Sick Time Act). Thus, employers in New York City must now comply with both laws. Although there were several differences between the laws, the New York City law was recently amended to eliminate some of these differences; however, other differences remain.

The city law was modified with regard to the amount of sick leave to which employees are entitled so as to be consistent with the state law. Now, under both laws, employers with 100 or more employees must provide up to 56 hours of paid sick and safe leave per calendar year, employers with 5-99 employees must provide up to 40 hours of paid sick and safe leave per calendar year, and employers with 4 employees or less must provide paid sick and safe leave if the employer's net income is greater than \$1 million or unpaid sick and safe leave if net income is \$1 million or less. In addition, the city law was revised to accord with the state law so that there is no longer a 120-day waiting period before employees may use their accrued sick time; rather it may be used as soon as it is accrued (subject to the permitted four hour minimum if the employer implements that minimum). Other changes are discussed below.

There are, however, differences between the city and state laws. While both laws provide that employees may take paid sick leave or safe leave to care for themselves or to care for a family member, and both define term "family member" to include an employee's child, spouse, domestic partner, parent, sibling, grandchild, or grandparent, as well as the child or parent of an employee's spouse or domestic partner, the city law is even broader and includes any other individual related by blood to the employee and any other individual whose close association with the employee is the equivalent of a family relationship. Thus, employers in New York City will have to abide by the broader definition.

Another difference is that under the city law employers must list on the paystubs (or any document issued each pay period) of employees who work in the city the amounts of accrued and used leave and the total balance of accrued leave. For this requirement only, which technically went into effect on Sept. 30, 2020, the city has announced that employers that could not operationalize the documentation requirement by Sept. 30, 2020, but are working in good faith on implementation, will have up to Jan. 1, 2021, to ensure compliance without a penalty.

One last difference is that employers in New York City must post a Notice of Employee Rights in a visible and accessible area of the workplace and provide the updated Notice of Employee Rights to employees by Jan. 1, 2021.

Two other key changes to the New York City law, which was effective as of Sept. 30, 2020. First, the New York City law now applies to domestic workers, who must be provided with up to 40 hours of paid safe and sick leave. Additionally, employers must reimburse employees who must pay for required medical documentation when returning after three consecutive workdays of leave. This last change is also reflected in the proposed regulations to the state law.

Thus, as New York City employers begin to comply with the New York State law covering paid sick and safe leave, they should also be aware of and follow the additional requirements under the New York City law.

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