

# The City of Philadelphia Enacts Paid Sick Leave Law

Article By:

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Following a number of other localities, the City of Philadelphia has enacted the [Promoting Healthy Families and Workplaces law](#) requiring certain employers located in the city to provide employees with up to 40 hours of paid sick time in a calendar year. Here are the 15 things you should know about this law:

1. The law requires employers with employees working in the city to allow for the accrual of 1 hour of sick time for every 40 hours worked in the city. Thus, hours spent telecommuting likely do not count towards sick leave accrual.
2. For employers with at least 10 employees in the city, the sick leave must be paid.
3. Employees may not accrue more than 40 hours of sick leave in a year, unless the employer chooses to provide a higher limit.
4. Some types of employees are excluded from coverage, i.e., interns, seasonal workers, pooled healthcare professions, unionized employees, among others.
5. Employees may carry over unused sick time, unless the employer provides the employees with 40 hours of available sick leave time at the beginning of the year. And if the employer doesn't and the employee carries over sick time, the employee is still only entitled to a maximum of 40 hours of sick leave.
6. Employees may use the sick leave to care for oneself or for a sick family member. Employees may also use the sick leave if the employee or a family member is a victim of domestic abuse, sexual assault or stalking.
7. Employers may require reasonable documentation supporting the need for leave if the leave is more than 2 consecutive days, but they cannot require the employee to provide details on the nature of their illness or the family member's illness.
8. Accruals start on May 13, 2015 – the law's effective date. Employees who become employed after such date begin to accrue leave at the commencement of employment/
9. Accrued sick leave may be taken beginning on the 90th day following commencement of

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employment. After the 90th day, the employees may use the leave as it accrues. The law omits any reference to leave usage for those already employed as of the law's effective date. We suspect the City Council or Mayor's office will address this issue before the law's effective date. In New York, which has a similar law (although with a 120-day not 90-day waiting period), employees had to wait until 120 days after the law's effective date before they could use any accrued leave. We think the same result will occur here.

10. Leave may be taken in the smaller of (a) hourly increments, and (b) the smallest increment that the employer's payroll system uses to account for absences or use of other time.
11. Employers may, but are not required to pay out accrued, but unused sick leave in the event of termination or resignation of employment.
12. Employers are required to provide written notice to employees notifying them that they are entitled to leave, the amount of leave, and they will not be retaliated against for using leave or asserting their rights under the law.
13. Employers are also required to keep records documenting the hours worked, the sick time taken by employees and payment when the employees are entitled to paid leave.
14. Employers who already have paid PTO or vacation or other leave policies that meet or exceed the requirements in this law do not have to provide additional sick time. But be careful, just because you have an existing PTO/vacation policy, does not mean it currently meets or exceeds this law's requirements. For example, does it define "family member" as broadly as the act defines it? Or does it provide for carryover?
15. Employees have a private right of action for violations of the law, including claims based on retaliation for asserting rights under the law, but must first file an administrative claim with the administrative agency charged with enforcing the law. Employees may be awarded the actual amount of sick time to which he or she is entitled, damages, liquidated damages in the amount of \$2,000, and attorneys' fees, along with other appropriate equitable relief such as reinstatement.

The Philadelphia city council has enabled the designated office of the mayor for enforcement (which has not yet been identified), to develop regulations and guidelines for purposes of implementation and enforcement. We expect that office to provide additional compliance assistance and guidance to employers and template notices and posters in the days leading up to the law's effective date and we will report back when we learn anything new.

In sum, employers with employees in the City of Philadelphia should: (i) review their existing sick leave benefits to ensure they meet the law's requirements; (ii) review and revise anti-retaliation policies to include rights under the new law; and (iii) obtain model notices workplace posters once made available by the city (and display the posters when obtained).

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