



NEW YORK STATE
PAID FAMILY LEAVE COALITION



FAQ'S ON THE NEW YORK CITY EARNED PAID SICK TIME ACT

1. What is *Earned Paid Sick Time*?

The Earned Paid Sick Time Act allows all workers in New York to earn paid time to use when they or a family member is sick or needs preventative care.

Workers earn one hour of sick time for every 30 hours worked. The maximum time off required under the bill is 72 hours a year for workers in larger businesses (20 employees or more) and 40 hours a year for those in smaller businesses (fewer than 20 employees).

2. Can employees “save up” unused days from year to year?

NO.

An employer is NEVER required to give more than 9 days paid sick time in any year if they are a larger business (20 employees or more) or 5 days if they are a smaller business (fewer than 20 employees).

Here's how it works: employees don't lose their paid sick time, so there will be no rush or incentive to use up remaining days at year's end.

Employees can bank their sick time between calendar years, **BUT** an employer is only required to provide up to 40 hours in a calendar year if they are a smaller business (fewer than 20 employees) or 72 hours in a calendar year if they are a larger business (20 employees or more) in a year. That means even if an employee has sick time hours in the “bank,” an employer is not required to allow the employee to use more than 40 hrs/72 hrs in any calendar year. There is no requirement that employers pay employees for any unused paid sick time when they leave their employment.

3. What does Earned Paid Sick Time cost employers?

The average cost to small businesses will be only \$5.37 per worker per week. The average cost to large businesses will be only \$7.94 per worker per week.¹

4. Will employers have to pay employees for unused days if they leave their job?

NO.

The bill is very clear that an employee has no right to be paid for unused sick time.

5. If an employer already has a paid leave policy (like paid time off or vacation) but no designated sick days, does this law require the employer to modify those policies and add paid sick days or designate some of their days off specifically for sick time?

NO.

Employers do not have to change their policies if they have a paid time off or a vacation policy that (1) gives workers the same amount, or more, of paid time required by the bill and (2) allows workers to use that time when they are sick. In that case, they automatically comply with the bill.

¹ Kevin Miller and Claudia Williams, “Valuing Good Health in New York City: The Costs and Benefits of the Paid Sick Time Act,” Institute for Women’s Policy Research, October, 2009.

6. Are there any protections against abuse in this bill?

The bill contains protections against potential abuse. Employers can require proof of illness for absences of 3 or more days.

Despite what many think, studies show that most people don't use all available sick days. Many businesses already provide paid sick days and do not experience problems.

Offering employees paid sick days creates a more positive work environment, improves morale and increases employee loyalty.

7. Does the act take into account the needs of small businesses?

Yes. Smaller businesses would only have to provide the minimal number of 5 sick days a year. This includes most New York City businesses; according to census data, nearly 9 out of 10 (88%) private business establishments in NYC have fewer than 20 employees.

8. Does the bill apply to workers on commission?

The bill applies to “employees” of “employers.” It does not apply to “independent contractors.”

Some workers on commission will be covered and some will not. Whether a worker is an employee depends on things like whether the worker is paid a salary, whether the employer pays payroll taxes, whether the employer controls work hours.

9. In determining whether an employer is a small or large business, how are franchises treated?

In most cases, franchise stores that contract out with larger businesses to use the name of that business but pay their employees independently (and in all other respects run their business independently) will have only the employees working for them counted.

Whether a business is large or small depends on the number of employees who work for that employer – small businesses are those with fewer than 20 employees, large businesses are those with 20 or more employees.

10. Isn't this law going to hurt businesses that are already struggling with a bad economy?

A similar law has been in effect in San Francisco since 2007 and has not hurt businesses there.² The bottom line is that a paid sick days law is good for business.

The average cost to small businesses will be only \$5.37 per worker a week.³ Weigh that against the benefits:

- (1) Fewer workers coming in sick means they don't spread illness to other workers, so overall absenteeism may even go down
- (2) Productivity goes up, accidents and mistakes go down
- (3) Turnover will go down because workers will be able to handle health emergencies without having to quit or risk being fired.

² Office of the Legislative Analyst, San Francisco Board of Supervisors, “Implementation Status of the Paid Sick Leave Ordinance” (BOS File No. 018-09 (August 24, 2009).

³ Kevin Miller and Claudia Williams, “Valuing Good Health in New York City: The Costs and Benefits of the Paid Sick Time Act,” Institute for Women’s Policy Research, October, 2009.