



GUIDE TO THE NEW PAID SICK LEAVE LAW

Assembly Bill No. 1827, concerning earned sick leave for employees, was recently signed into law and goes into effect October 29, 2018.

General Information

Sick leave applies to all workers, full- and part-time, employed in the State of New Jersey, with the exception of: construction workers under contract pursuant to collective bargaining; per diem healthcare employees; or public employees already provided with sick leave.

Beginning on October 29, 2018, or on the date that the employee is hired (whichever occurs later), employee earns one (1) hour of sick leave for every 30 hours of work.

Sick leave must be paid at the same rate and with the same benefits that the employee normally earns.

The pay rate shall not be less than minimum wage.

Employees can use sick leave after 120 calendar days from the start of their employment.

Employees can earn up to 40 hours over a 12-month consecutive period, also known as a benefit year.

Employers cannot require the employee using sick leave to find a replacement to cover the hours that they are using sick leave.

When can sick leave be used?

For any medical diagnosis, care, treatment, or recovery of the employee or a family member of the employee.

For the medical or psychological recovery from domestic or sexual violence (experienced by an employee or their family member), as well as the time to relocate or undertake legal proceedings as a result of domestic or sexual violence.

If an employee's place of business, child's school, or child's place of care has been closed due to a health-related reason.

If a public health official has determined that an employee or their family member could jeopardize the health of others.

For the employee to attend a school-related conference, meeting, or function, or for the purposes of discussing the child's health.



Definition of a Family Member

A family member includes a child, grandchild, sibling, spouse, domestic partner, civil union partner, parent, or grandparent of an employee, or a spouse, domestic partner, or civil union partner of a parent or grandparent of the employee, or a sibling of a spouse, domestic partner, or civil union partner of the employee, or any other individual related by blood to the employee or whose close association with the employee is the equivalent of a family relationship.

Advance Notice and Request for Documentation

If the reason for use of sick leave is foreseeable, an employer may require an employee to provide notice up to seven days in advance.

If an employee uses three consecutive days of sick leave, the employer can request reasonable documentation, such as a doctor's note.

Black Out Days

Employers may prohibit employees from using foreseeable earned sick leave on certain dates.

If sick leave that is not foreseeable is used during those dates, the employer may require reasonable documentation.

In the Case of Transfer or Re-hire

If an employee is transferred, but remains employed by the same employer, then the employee shall be entitled to all earned sick leave accrued at the prior division, entity, or location, and shall be entitled to use the accrued earned sick leave.

Employers are not required to pay an employee for unused sick leave hours upon termination of the employee. However, if an employee is re-hired or reinstated, any unused accrued earned sick leave shall be reinstated within six months of termination being laid off, or furloughed, or separation.

Accrual Process

Employers have the option to implement an accrual process or to pay employees the remainder of their earned sick leave within the final month of the employer's benefit year.

The employee has 10 calendar days from the date of the employer's offer to accept or decline. If the employee agrees to receive a payment, the employee shall choose a payment for the full amount or 50 percent of the amount of unused earned sick leave.

If the employee declines a payment for unused earned sick leave, or agrees to a payment for 50 percent of the amount of unused sick leave, the employee can carry forward any unused or unpaid earned sick leave to the proceeding benefit year.



If the employer decides not to institute the accrual process, the employer shall either provide to the employee a payment for the full amount of unused earned sick leave in the final month of the employer's benefit year or carry forward any unused sick leave to the next benefit year.

Retaliation

The law prohibits retaliatory actions against an employee for the use or requested use of earned sick leave or for filing a complaint for an employer violation of the law's provisions.

Employers cannot count earned sick leave as an absence that may result in the employee being subject to discipline, discharge, demotion, suspension, a loss or reduction of pay, or any other adverse action.

Preemption

This law preempts all county and municipal law regarding sick leave and specifically states that counties and municipalities shall not pass any ordinances, resolutions, laws, rules, or regulations regarding sick leave.

Record Keeping and Notification of Workers' Rights

For a period of five years, employers shall retain records documenting hours worked by employees and earned sick leave taken by employees.

If an employee makes a claim that the employer has failed to provide earned sick leave and the employer has not maintained or retained adequate records documenting hours worked by the employee and earned sick leave taken by the employee, it shall be presumed that the employer has failed to provide the earned sick leave.

Employers shall provide notification, in a form issued by the Commissioner of the Department of Labor and Workforce Development, to employees of their rights under this act.

The Commissioner shall develop and implement a multilingual outreach program to inform employees, parents, and persons under the care of health care providers about the availability of earned paid sick leave pursuant to this act. The program shall include the distribution of written materials to all child care and elder care providers, domestic violence shelters, schools, hospitals, community health centers and other healthcare providers. The materials should be made available in English, Spanish and any language that is the primary language of 10 percent or more of the registered voters in the State.

Please note that this document is to serve as a guide and should not be considered legal advice.

For questions or interpretation of how this law should be implemented, please consult with your HR experts and/or legal counsel.

