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NEW YORK
STATE OF
OPPORTUNITY
Department
of Labor

NEW YORK STATE PAID SICK AND SAFE LEAVE

All private sector workers in New York State are now covered under the state's new sick and safe leave law, regardless of industry, occupation, part-time status, overtime exempt status, and seasonal status.

The law requires employers with five or more employees to provide their employees with paid sick and safe leave. Businesses with fewer than five employees and a net income of \$1 million or less must provide unpaid sick and safe leave to employees.

AMOUNT OF LEAVE

Employees will receive an amount of sick and safe leave depending on the size of their employer:

Number of Employees	Employer Leave Requirements
0 - 4	If net income is \$1 million or less in the previous tax year, the employer is required to provide up to 40 hours of unpaid sick leave per calendar year.
0 - 4	If net income is greater than \$1 million in the previous tax year, the employer is required to provide up to 40 hours of paid sick leave per calendar year.
5 - 99	Up to 40 hours of paid sick leave per calendar year.
100+	Up to 56 hours of paid sick leave per calendar year.

A January 1 – December 31 calendar year must be used for purposes of counting employees. Small employers who reported net income of less than \$1 million do not need to pay their employees sick leave, but must provide the additional allotted leave time. For other purposes, including use and accrual of leave, employers may set a calendar year to mean any 12-month period.

SAFE LEAVE

After January 1, 2021, employees may use accrued leave following a verbal or written request to their employer for sick or safe leave for reasons impacting the employee or a member of their family for whom they are providing care or assistance with care.

Safe leave may be used for an absence from work when the employee or employee's family member has been the victim of domestic violence as defined by the State Human Rights Law, a family offense, sexual offense, stalking, or human trafficking due to any of the following as it relates to the domestic violence, family offense, sexual offense, stalking, or human trafficking:

- to obtain services from a domestic violence shelter, rape crisis center, or other services program;
- to participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family members;
- to meet with an attorney or other social services provider to obtain information and advice on, and prepare for or participate in any criminal or civil proceeding;
- to file a complaint or domestic incident report with law enforcement;
- to meet with a district attorney's office;
- to enroll children in a new school; or
- to take any other actions necessary to ensure the health or safety of the employee or the employee's family member or to protect those who associate or work with the employee.

CAN AN EMPLOYEE USE SAFE LEAVE IF THE POLICE HAVE NOT BEEN CONTACTED OR THE PERPETRATOR HAS NOT BEEN CONVICTED?

Yes. An employee's eligibility for safe leave is not dependent on reporting to law enforcement or a criminal conviction.

WHO QUALIFIES AS A "FAMILY MEMBER" FOR THE PURPOSES OF THIS LAW?

"Family member" is defined as an employee's child, spouse, domestic partner, parent, sibling, grandchild, or grandparent; and the child or parent of an employee's spouse or domestic partner. "Parent" is defined as a biological, foster, step- or adoptive parent, or a legal guardian of an employee, or a person who stood in loco parentis when the employee was a minor child. "Child" is defined as a biological, adopted or foster child, a legal ward, or a child of an employee standing in loco parentis.

DOES AN EMPLOYEE'S IMMIGRATION STATUS AFFECT WHETHER THEY ARE ENTITLED TO SICK OR SAFE LEAVE UNDER THE LAW?

No. An employee's immigration status has no effect on their eligibility for sick or safe leave benefits under this law.

DO EMPLOYEES CONTINUE TO EARN SICK OR SAFE LEAVE WHILE USING PAID SICK OR SAFE LEAVE UNDER THIS LAW?

No. Employees are only required to be credited with leave time for hours worked, and not for hours spent using sick or safe leave time under this law.

MAY PAID FAMILY LEAVE BE USED CONSECUTIVELY WITH PAID SICK LEAVE (E.G. THREE DAYS OF PAID SICK LEAVE, TWO DAYS OF PAID FAMILY LEAVE)?

An employee can only choose to use sick leave during Paid Family Leave (PFL) if the employer allows it. Taking sick leave at the same time as PFL may allow the employee to receive their full salary for all or part of the leave. However, an employee cannot receive more than their full wages while receiving PFL benefits.

CAN AN EMPLOYER HAVE A POLICY THAT PERMITS EMPLOYEES TO DONATE UNUSED LEAVE TO OTHER EMPLOYEES?

Yes. An employer can have a policy that allows employees to donate unused leave to other employees, if the policy is entirely voluntary.

WHAT DO I DO IF MY EMPLOYER ISN'T PROVIDING ME WITH SICK OR SAFE LEAVE AS REQUIRED BY THE LAW?

Employees may file a complaint with the Department of Labor by calling **888-469-7365**.

For more information about New York State's Paid Sick and Safe Leave, including additional FAQs, regulations, and more, please visit **ny.gov/paidsickleave**.

To get additional help, please visit New York State's Office for the Prevention of Domestic Violence at **opdv.ny.gov**.