

Overview of Paid Time Off Laws in the United States

Two U.S. states, one county, and one city have paid time off laws on the books. This document provides an overview of these laws.¹

	Maine ²	Nevada ³	Bernalillo County, NM ⁴	West Hollywood, CA ⁵
Who is covered?	Workers employed in the State of Maine are covered, with some exceptions including seasonal employees, some agricultural workers, and certain commission-only or direct sales employees.	Workers employed in Nevada in the private sector are covered, except “temporary,” “seasonal,” and “on-call” employees. The law also does not apply to any employer who has any policy that provides paid time off at the same accrual rate as the Nevada law. <i>Employers in their first 2 years of operation are exempt from the law.</i>	Workers employed within the unincorporated limits of the County for an employer with 2 or more employees who work at least 56 hours a year are covered, with some exceptions such as government employees, independent contractors or per diem employees, and certain employees exempted from the state minimum wage law, including some student workers. While other government employees are exempted, Bernalillo County employees are covered. To be covered, employees must work for an employer required to apply for a business registration with the County with certain physical premises and two or more employees in the unincorporated limits of the County. <i>New employers whose principal office and place of business is in the unincorporated county are exempt from the law in their first year as a registered business with the County.</i>	Workers who work within the City of West Hollywood for at least 2 hours in a particular week and who qualify as employees entitled to payment of a minimum wage under the California Labor Code and wage orders are covered, with some exceptions such as government employees (including school districts) and independent contractors.
Do workers have different rights based on the size of their employer?	Yes, workers who work for employers with 10 or fewer employees are not covered.	Yes, workers who work for employers with 49 or fewer employees are not covered.	Yes, workers who work for employers with fewer than 2 employees are not covered. Additionally, the amount of paid time off that a worker can earn per year differs depending on their employer’s size.	No.
Rate at which workers earn paid time off?	1 hour of paid time off for every 40 hours worked.	.01923 hours of paid time off for every hour worked (which translates roughly to one hour of paid time off for every 52 hours worked.)	1 hour of paid time off for every 32 hours worked.	96/52 (or approximately 1.846) hours of paid time off for every 40 hours worked. ⁶
Amount of paid time off that can be earned or used per year?	Employers can limit accrual to 40 hours per year.	Employers can limit use to 40 hours per year.	Employers with 10 or fewer employees can limit accrual and use to 28 hours per year. Employers with 11 to 34 employees can limit accrual and use to 44	Employers can limit accrual to 96 hours per year.

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			hours per year. Employers with 35 or more employees can limit accrual and use to 56 hours per year.	However, workers who exhaust their paid time off in a year are also entitled to up to 80 hours of unpaid time off for sick leave. ⁷
When can covered workers use their earned paid time off?	Employers may require workers to be employed for 120 days before allowing use of earned paid time off.	Employers may require workers to be employed for 90 days before allowing use of earned paid time off. Employers may also require employees to use earned paid time off in minimum increments of 4 hours (or less).	Employers may require workers to be employed for 90 days before allowing use of earned paid time off. Employees can use accrued time off after working 56 hours in a year.	Employers may require workers to be employed for 6 months before allowing use of earned paid time off. ⁸
Does the law specifically protect time that needs to be taken on an emergency basis (e.g. for sudden illness)?	Yes	Not specifically addressed in the law.	Yes	Not specifically addressed in the law, although it does specify that an employer may not unreasonably deny a request to earned paid time off.
Does unused time carry forward to the next year?	Not specifically addressed in the law.	Yes, up to 40 hours.	Yes, up to the amount of maximum required accrual for the year.	Yes, unused paid time off carries over until the time reaches a maximum of 192 hours. ⁹
What notice and scheduling requirements must workers meet before taking earned paid time off?	Absent an emergency, illness or other sudden necessity for taking earned paid time off, an employee must give “reasonable notice” to their supervisor. Use of leave must be scheduled to prevent	Employees must provide their employer notice of their use of paid time off “as soon as practicable,” but don’t have to provide their reason for use.	Employees must provide their employer notice of their use of paid time off “as soon as practicable,” but don’t have to provide their reason for use.	Not specifically addressed in the law, although it does specify that an employer may not unreasonably deny a request to earned paid time off.

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	undue hardship on the employer as reasonably determined by the employer.			
Are there waivers/ exemptions for workers covered by a valid Collective Bargaining Agreement (CBA)?	The law does not apply to any employee covered by a CBA during the period between January 1, 2021 and the expiration of the agreement.	The law does not apply to employees covered by a CBA providing earned paid time off to all scheduled employees at an accrual rate equal to or better than the law.	The law, which took effect on October 1, 2020, ¹⁰ will not take effect for workers covered by a valid CBA until the date of termination of any collective bargaining agreement.	The provisions of the law may be waived in a bona fide CBA if the waiver is explicitly set forth in clear and unambiguous terms.
Can cities in the state or county pass earned paid time off time laws that are broader than the state or county law?	No	Not explicitly addressed in the law.	Not explicitly addressed in the law.	N/A
What is the means of enforcement of the law?	The State Labor Bureau enforces the law.	The State Labor Commissioner enforces the law and may refer matters to the local district attorney, the Deputy Labor Commissioner, or the state Attorney General for enforcement.	The County of Bernalillo	The City of West Hollywood
Is there a private right of action?	No.	No.	Upon exhausting the administrative process, or upon receipt of authorization to bring a civil action, a civil action may be filed in court.	Yes.
Statutory citation	26 Me. Rev. Stat. Ann. § 637.	Nev. Rev. Stat. § 608.0197.	Bernalillo Cty. Code § 14-703.	West Hollywood Mun. Code tit. 5, § 5.130.030.

¹ Rules and regulations providing additional guidance and clarification of the laws' provisions may be forthcoming. Employees in California and other states may have rights to paid time off under different laws such as state paid family and medical leave laws or state or local paid sick time laws. See abetterbalance.org for more information.

² Me. Stat. tit. 26, § 637. For more information from the State of Maine, see https://www.maine.gov/labor/labor_laws/earnedpaidleave/.

³ Nev. Rev. Stat. § 608.0197. For more information from the State of Nevada, see <https://nvhealthresponse.nv.gov/wp-content/uploads/2020/03/SB-312-Paid-Leave-English.pdf>.

⁴ Bernalillo Cty. Code § 14-703. For more information from Bernalillo County, see <https://www.bernco.gov/planning/employee-wellness-act/>.

⁵ West Hollywood Mun. Code tit. 5, § 5.130.030. For more information from the City of West Hollywood, see <https://www.weho.org/business/operate-your-business/minimum-wage#:~:text=Full%20time%20employees%20for%20all,%2C%20vacation%2C%20or%20personal%20necessity>.

⁶ Paid time off does not accrue for work in excess of 40 hours per week.

⁷ Uncompensated time off can be used for sick leave purposes when the employee or the employee's immediate family member is ill. This time is earned at a rate of 80/52 (or approximately 1.5385) hours for every 40 hours worked. However, uncompensated time off does not accrue for work in excess of 40 hours per week. The definition of "immediate family member" for uncompensated time off matches the definition for that term in the California Family Rights Act. For more information, see <https://www.abetterbalance.org/states/california/>.

⁸ Generally, paid time off hours that an employer designates as sick leave must be made available for an employee to use no later than the 90th day of their employment pursuant to California's statewide paid sick time law. For more information, see <https://www.abetterbalance.org/resources/know-your-rights-california-paid-sick-time/>.

⁹ Unused uncompensated time off carries over until the time reaches a maximum of 80 hours.

¹⁰ Although Bernalillo County's law's effective date was July 1, 2020, the effective date was postponed pursuant to an executive order by the County Manager on June 11, 2020. For more information, see <https://www.bernco.gov/planning/wp-content/uploads/sites/58/2021/03/Employee-Wellness-Act-Guidance-Jan-22-2021.pdf>.