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KNOW YOUR RIGHTS: New York State Paid Sick Time

This fact sheet covers New York’s permanent statewide sick time law. Workers in New York State may have additional paid leave rights in relation to COVID-19 under New York’s emergency paid sick leave law or New York’s COVID-19 vaccination leave law. For more information, click [here](#).

1) What does the New York State Sick Time law do?

It gives workers sick time that can be used to recover from physical/mental illness or injury; to seek medical diagnosis, treatment, or preventative care; to care for a family member who is ill or needs medical diagnosis, treatment, or preventative care; or to address certain non-medical needs that may arise if the worker or a family member is a victim of domestic violence, a family offense, a sexual offense, stalking, or human trafficking.

2) Am I covered?

If you work as an employee in New York State, you are probably covered, whether you are a **full-time, part-time, or temporary** worker. Workers are covered regardless of immigration status. However, the law does not cover federal, state, and municipal employees.

3) How much sick time can I earn?

You earn **1 hour** of sick time for **every 30 hours worked**. The amount of time you can use depends on the size of your employer. If your employer has **100 or more workers**, you can earn **up to 56 hours** of sick time per year. If your employer has **between 1 and 99 workers**, you can earn **up to 40 hours** of sick time per year. If your employer has **fewer than 5 workers** and a net income of less than \$1 million in the last tax year, your sick time may be unpaid—but you can’t be fired or punished for taking it.

Instead of giving you sick time as you earn it, your employer may choose to “front load” your sick time at the beginning of each calendar year. If your employer front loads your sick time and you’re a full-time employee, they must give you the maximum number of hours that you’d be able to use per year based on their size (as explained above). However, if your employer front loads your sick time and you’re a part-time employee, they may give you sick time in the amount that you’d accrue based on the hours you’re anticipated to work (at a rate of 1 hour of sick time for every 30 hours worked)—but if the amount of sick time they front load is less than 40 hours, they must still track your hours in case you’d earn more sick time than anticipated based on your hours worked. Employers that front load your sick time cannot reduce or revoke it if you work fewer hours than they thought you would.

All covered employees are protected against being fired or punished for using or requesting their sick time (including threats, discipline, demotion, reduction in hours, termination, etc.).

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4) What if my work or my child’s school or daycare is closed for a health emergency?

You cannot use your sick time because your child’s school or daycare is closed unless you would otherwise be able to use your sick time (for example, if you are sick or caring for a sick family member). However, because you’re able to use sick time for preventive care of a physical or mental illness, injury, or health condition (as explained in Question 1 above), depending on the type of health emergency and reasons for closure, you may be able to use your sick time because your work or your child’s school is closed.

5) Which of my family members are covered by the law?

Under the law, you can take sick time to care for yourself or a child (or child of a spouse or domestic partner), parent, parent of a spouse or domestic partner, spouse, domestic partner, grandparent, grandchild, or sibling.

6) What if I already have paid leave or paid time off?

If you already get any paid leave (vacation, paid time off, etc.) that you can use as sick time *and* it’s **at least** the same amount you would earn under this law, the law does **not** give you any additional paid time off but other aspects of the law such as protections against retaliation should apply.

7) When can I begin using my sick time?

You start earning sick time on September 30, 2020 or when you start work, whichever is later. And beginning **January 1, 2021**, you can use your sick time as soon as it’s earned.

The New York State Department of Labor Commissioner is in charge of enforcing this law.

All covered workers are protected against being fired or punished for using or requesting sick or safe time. If you have a problem—or want more information—call A Better Balance’s free legal clinic at **1-833-NEED-ABB**.

Please note that this fact sheet does not represent an exhaustive overview of the paid sick time law described, and it does not constitute legal advice. It is possible that additional provisions not described in this fact sheet may apply to a worker’s specific circumstances or category of employment.