

Minneapolis and St. Paul Sick and Safe Leave Update

The cities of Minneapolis and St. Paul have enacted new ordinances concerning mandatory sick and safe leave time for employees, including temporary and part-time employees, that perform work within the geographic boundaries of either city for at least 80 hours in a year for that employer. These new ordinances go into effect on July 1, 2017 for Minneapolis employers and for St. Paul employers with 24 or more employees, and on January 1, 2018 for St. Paul employers with 22 or fewer employees. Below is a summary of the key aspects of the city ordinances which, for all material purposes, mirror one another.

Under each city's ordinance, employees accrue a minimum of one (1) hour of sick and safe time for every thirty (30) hours worked, with such accrual occurring only in one-hour increments without the option for the accrual of a fraction of an hour. This accrual begins at the commencement of employment of the employee or the effective date of the ordinance, whichever is later.

An employer may provide safe and sick time through either accrual or front-loading.

Accrual: For employers using the accrual method, employees may accrue a maximum of forty-eight (48) hours of sick and safe time in each calendar year. Employees shall be permitted to carry over accrued but unused sick and safe time into the following year. However, the total amount of accrued but unused sick and safe time for an employee may not exceed eighty (80) hours at any time.

Front-Loading: For employers using the front-loading method, such employer may satisfy its obligation to provide sick and safe time by providing at least 48 hours of sick and safe time following the initial ninety (90) days of employment for use by the employee during the first calendar year. Then, at the beginning of each subsequent calendar year, the employer could satisfy its obligations by providing at least eighty (80) hours of sick and safe time. At the time the hours are provided under this front-loaded method, such hours are deemed to be "accrued." As a result, even under the front-loaded method, the total amount of accrued but unused sick and safe time for an employee may not exceed eighty (80) hours at any time.

Employees are entitled to use accrued sick and safe time beginning ninety (90) days following commencement of their employment.

Sick Time: Sick and safe time may be used by the employee individually, or the care of a family member with, mental or physical illness, injury, or health condition; need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or need for preventive medical or health care. A “family member” means the employee’s child, step-child, adopted child, foster child, adult child, spouse, sibling, parent, step-parent, mother-in-law, father-in-law, grandchild, grandparent, or registered domestic partner. In Minneapolis, such definition includes a ward or member of the employee’s household. In St. Paul, such definition includes any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

Safe Time: Sick and safe time may be used to cover an absence due to domestic abuse, sexual assault, or stalking of the employee or employee’s family member, provided the absence is to seek medical attention related to physical or psychological injury or disability caused by domestic abuse, sexual assault, or stalking; to obtain services from a victim services organization; to obtain psychological or other counseling; to seek relocation due to domestic abuse, sexual assault, or stalking; or to take legal action, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from domestic abuse, sexual assault or stalking.

An employee may also use sick and safe time in order to care for a family member whose school or place of care has been closed due to inclement weather, loss of power, loss of heating, loss of water, or other unexpected closure.

It is unlawful for an employer or any other person, take an adverse employment action or discriminate against an employee because the employee has exercised their rights under the Sick and Safe Leave Act. It is also unlawful to interfere with, restrain, or deny the exercise (or attempted exercise) of, any right under the sick and safe time ordinances.

Employers must allow an employee to use sick and safe time in increments consistent with their current payroll practices, provided that such increment is not more than 4 hours. The rate of pay for sick and safe time must be the employee’s standard hourly rate with the same benefits, and compensation is only required for hours that an employee is scheduled to have worked.

By the relevant effective date, Minneapolis and St. Paul will have created notices suitable for posting in the workplace informing employees of their rights under the relevant ordinances. Each employer is obligated to post such notices in a conspicuous place in the location where such employees are employed. An employer that provides an employee handbook to its employees is required to include in the handbook notice of employee rights and remedies under the ordinances.

Upon request by an employee, the employer shall provide, in writing or electronically, information stating the employee's then-current amount of (1) accrued sick and safe time available to the employee, and (2) used sick and safe time.

In the event an employee is transferred to a separate division, entity, or location outside of the city, the employer must maintain previously-accrued sick leave for 3 years. If the employee is rehired within 90 days of separation, previously accrued sick and safe time that has not been used must be reinstated and the employee is entitled to use the leave immediately.

It is important to note that employers already offering a paid leave policy that meets or exceeds, and does not otherwise conflict with, the minimum standards and requirements of the new city ordinances are not required to provide additional safe and sick time. This can consist of paid time off or a combination of sick and vacation time.

In addition, there is no requirement that an employer pay out unused sick and safe time upon an employee's termination, resignation, retirement, or other separation.

Employers are required to retain accurate records documenting hours worked by employees and used sick and safe time. In addition, employers in Minneapolis must document hours of leave available for sick and safe time purposes.

In light of the modifications under these new ordinances, please contact us with any questions concerning the new sick and safe time leave ordinances or for assistance in modifying company handbooks.