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## PAID SAFE AND SICK LEAVE: WHAT EMPLOYERS NEED TO KNOW

Certain employers must comply with New York City's amended Earned Safe and Sick Time Act (Paid Safe and Sick Leave Law). Under the law, covered employees have the right to use safe and sick leave for the care and treatment of themselves or a family member and to seek assistance or take other safety measures if the employee or a family member may be the victim of any act or threat of domestic violence or unwanted sexual contact, stalking, or human trafficking.

The safe leave amendments, which took effect May 5, 2018, do not require an employer to provide additional time off for safe leave; instead, they require employers to allow employees to use earned leave for safe leave purposes.

The Department of Consumer Affairs (DCA) prepared this sheet to provide guidance to employers about their responsibilities under the law. DCA will update this sheet as appropriate. Please note the date at the bottom of the sheet. To read the law and Frequently Asked Questions about the law, go to [nyc.gov/PaidSickLeave](http://nyc.gov/PaidSickLeave).

### ALL PRIVATE AND NONPROFIT EMPLOYERS MUST PROVIDE SAFE AND SICK LEAVE

Number of Employees	Amount of Safe and Sick Leave per Calendar Year	Rate of Pay for Leave
5 or more  <i>Must work 80+ hours a calendar year*</i>	Up to 40 hours <i>paid</i> leave	Regular hourly rate but no less than the current minimum wage
1-4  <i>Must work 80+ hours a calendar year*</i>	Up to 40 hours <i>unpaid</i> leave	Unpaid

\* "Calendar Year" means any regular and consecutive 12-month period of time determined by an employer.

*Note:* If you have an existing policy allowing employees to use safe and sick leave, your policy must meet or exceed the requirements of the law.

### EMPLOYEES WHO ARE NOT COVERED BY THE LAW

Employers do not have to provide safe and sick leave to the following employees:

- Employees who work 80 hours or less a calendar year
- Students in federal work study programs
- Employees whose work is compensated by qualified scholarship programs
- Employees of government agencies
- Physical therapists, occupational therapists, speech language pathologists, audiologists who are licensed by the New York State Department of Education if they call in for work assignments at will, determine their own work schedule, have the ability to reject or accept any assignment referred to them, and are paid an average hourly wage, which is at least four times the federal minimum wage
- Independent contractors who do not meet the definition of an employee under New York State Labor Law
- Participants in Work Experience Programs
- Certain employees subject to a collective bargaining agreement. In the case of collective bargaining agreements, employees are not covered by the law if the agreement expressly waives the law's provisions and provides comparable benefits. However, for employees in the construction or grocery industry covered by a collective bargaining agreement, the law does not apply if the agreement expressly waives the law's provisions. For guidance on collective bargaining agreements, read Frequently Asked Questions at [nyc.gov/PaidSickLeave](http://nyc.gov/PaidSickLeave).

### NOTICE OF EMPLOYEE RIGHTS

You must provide each employee with written notice of the employee's right to safe and sick leave, including accrual and use of safe and sick leave, the right to file a complaint, and the right to be free from retaliation. The notice must state the start and end dates of your calendar year. Employees have a right to the notice in English and, if available on the DCA website, their primary language. The notice is available at [nyc.gov/PaidSickLeave](http://nyc.gov/PaidSickLeave).

*Note:* Even if you provided a Notice of Employee Rights to comply with the Paid Sick Leave Law, you must provide the new Notice of Employee Rights containing safe leave information to all employees by June 4, 2018.

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## SAFE AND SICK LEAVE ACCRUAL AND USE – IMPORTANT DATES

Rate of Accrual	Date Accrual Begins	Date Sick Leave Available for Use	Date Safe Leave Available for Use
1 hour for every 30 hours worked	April 1, 2014 or the first day of employment, whichever is later	July 30, 2014 or 120 days after first day of employment, whichever is later	May 5, 2018 or 120 days after first day of employment, whichever is later

*Exception:* If an employee is covered by a collective bargaining agreement that was in effect on April 1, 2014, the employee begins to accrue safe and sick leave under City law beginning on the date that the agreement expires. The employee can begin using accrued sick leave 120 days after the date that the agreement expires. The employee can begin using safe leave on May 5, 2018 or 120 days after the date that the agreement expires, whichever is later.

### RECORDKEEPING

You must keep and maintain records documenting compliance with the law for at least three years. You must keep any information related to the employee's reasons for using safe and sick leave confidential unless the employee permits you to disclose it or disclosure is required by law. You must make the records available to DCA upon notice at an agreed upon time of day.

### ADVANCE NOTICE

If the need is foreseeable, you can require up to seven days advance notice of an employee's intention to use safe or sick leave. If the need is unforeseeable, you may require an employee to give notice as soon as practicable (reasonable).

### DOCUMENTATION

You can require documentation if an employee uses more than three consecutive workdays as safe or sick leave. For sick leave, you can require that the documentation be from a licensed health care provider. For safe leave, reasonable documentation under the law includes documentation signed by a social service provider, a member of the clergy, an attorney, court or police records, or a notarized letter by the employee explaining the need for safe leave. The Paid Safe and Sick Leave Law prohibits you from requiring the person providing documentation to specify the reason for safe or sick leave. Disclosure may be required by other laws. You may require an employee to provide written verification that the employee used safe or sick leave for safe or sick leave purposes.

### UNUSED SAFE AND SICK LEAVE

An employee can carry over up to 40 hours of unused safe and sick leave to the next calendar year. However, you are only required to let an employee use up to 40 hours of safe and sick leave per calendar year. You can choose—but are not required—to pay an employee for unused safe and sick leave at the end of the calendar year. Employees cannot carry over safe and sick leave if you pay them for the unused safe and sick leave AND you provide the employee with an amount of paid safe and sick leave that meets or exceeds the requirements of the law for the new calendar year on the first day of the new calendar year.

### RETALIATION

You cannot retaliate against employees for requesting or using safe and sick leave. Retaliation includes any threat, discipline, discharge, demotion, suspension, or reduction in an employee's hours, or any other adverse employment action against an employee that deters an employee from exercising or attempting to exercise any right guaranteed under the law.

### COMPLAINTS

If an employee files a complaint with DCA, DCA will contact you by mail for written response. You must respond to DCA within 30 days, sometimes sooner depending on the allegations. DCA will work with you to resolve the complaint.

### NOTICE OF INVESTIGATION

If you receive a notice of investigation, provide all of the information and documents requested. Failure to comply may constitute a violation of the law and may result in fines in addition to civil penalties and relief for other potential violations of the law. Failure to produce records may negatively affect your case in the event of a proceeding at the City's administrative tribunal. You will have the opportunity to settle any violations without a hearing or you can appear before an impartial judge at the City's administrative tribunal.

#### Questions? Want to attend a training to understand the law?

Contact DCA in the following ways:

- Online Live Chat, available at [nyc.gov/BusinessToolbox](https://nyc.gov/BusinessToolbox)
- Email [PSSL@dca.nyc.gov](mailto:PSSL@dca.nyc.gov)
- Call 311 (212-NEW-YORK outside NYC) and ask for information about Paid Safe and Sick Leave