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Department
of Labor

NEW YORK STATE PAID SICK LEAVE FOR DOMESTIC WORKERS

All private sector workers domestic workers in New York State, including seasonal workers, are now covered under the state's new sick and safe leave law, in addition to leave under the State Domestic Worker Bill of Rights, which is available at on.ny.gov/dwrights.

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

KEY DATES

- **September 30, 2020:** Covered employees in New York State will start to accrue leave at a rate of one hour for every 30 hours worked.
- **January 1, 2021:** Employees may start using accrued leave.

AMOUNT OF LEAVE

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

Number of Employees	Employer Sick 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 \$1million 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.

ARE DOMESTIC WORKERS COVERED BY THE LAW?

Domestic workers are eligible for leave protections under the law depending on the size of their employer, in addition to leave under the State Domestic Worker Bill of Rights, which is available at on.ny.gov/dwrights.

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

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

I WORK IN WESTCHESTER COUNTY, WHICH PROVIDES DOMESTIC WORKERS UP TO 40 HOURS OF LEAVE PER YEAR REGARDLESS OF EMPLOYER SIZE. IS THAT STILL THE LAW?

Westchester County law currently provides that domestic workers accrue sick leave at the rate of one hour for every 7 days worked and earn and can use up to 40 hours of paid sick leave per year, regardless of the size of the employer. These benefits will continue to be available to domestic workers in Westchester County.

HOW DO EMPLOYEES WHO ARE PAID ON A COMMISSION, FLAT RATE BASIS, OR OTHER NON-HOURLY BASIS ACCRUE SICK LEAVE?

When employees are paid on a non-hourly basis, accrual of sick leave is measured by the actual length of time spent performing work.

DO EMPLOYEES ACCRUE LEAVE FOR PAY RECEIVED FOR NON-WORKING TIME?

No. Employees do not accrue leave for payments that are not for hours worked, such as bonuses or subject-to-call time. However, time that is considered “hours worked,” including on-call time, training time, and travel time, must be counted for the purposes of accruing leave.

CAN AN EMPLOYER REQUIRE THAT AN EMPLOYEE LOCATE A REPLACEMENT WORKER TO COVER A SHIFT/ JOB IF THE EMPLOYEE ELECTS TO USE THEIR SICK LEAVE?

No. So long as an employee is using the sick leave for one of the reasons prescribed under the law, an employer may not require any additional preconditions.

CAN AN EMPLOYEE USE SICK LEAVE FOR ONLY HALF A WORKDAY?

The maximum increment an employer may set for the use of sick leave under this law is four hours. An employee may use four hours of accrued sick leave as needed (or less, if an employer allows for smaller increments of sick leave usage, such as one or two hours).

WHAT DO I DO IF MY EMPLOYER ISN'T PROVIDING ME WITH SICK 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 Leave, including additional FAQs, regulations, and more, please visit **ny.gov/paidsickleave**.

To view the New York State Domestic Worker Bill of Rights, visit **on.ny.gov/dwrights**.