

Pittsburgh Paid Sick Days Act

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After years of litigation, the Pennsylvania Supreme Court resurrected Pittsburgh's Paid Sick Days Act ("PSDA"). As a result of this ruling and revised regulations, which were just issued on February 15, 2020, the law will take effect on March 15, 2020.

Which employers must comply with the PSDA?

The Act covers all employers who have employees that work within the boundaries of the City of Pittsburgh ("City"). It also extends to employers that acquire the business of a previously covered employer whose employees remain continuously employed.

Who is eligible for Sick Time under the PSDA?

The PSDA applies to any person who works at least 35 hours per week in the geographic boundaries of Pittsburgh. This definition specifically excludes: independent contractors, state or federal employees, any member of a construction union covered by a collective bargaining agreement, and seasonal employees. Workers who generally perform work outside the City's geographic boundaries, nonetheless, will become eligible if they cumulatively perform at least 35 hours of work in the City. Eligibility for Sick Time, however, is based solely on the hours worked within the City.

When can employees use Sick Time?

The PSDA permits an employee to use Sick Time if the employee or the employee's family members (1) have an illness, injury, or health condition or (2) need medical diagnosis, care, or medical treatment, which includes preventive and mental health care. The PSDA also covers a public health emergency. The PSDA casts a broad net over who constitutes a "family member" beyond the nuclear family, including, for example, grandparents, grandchildren, certain step-relatives, and any individual for whom the employee has received oral permission from the employer to care for at the time of the employee's request to make use of Sick Time.

How do employees take Sick Time?

To take this leave, employees must make an explicit request, and employers may require that it be in writing. The Guidelines permit employers to implement their request procedures, but in the absence of a policy, the PSDA contains default provisions.

How do employees acquire Sick Time?

If an employer has 15 or more employees, a covered employee will accrue 1 hour of **paid** Sick Time for every 35 hours that he or she works up to a maximum of 40 hours. If, however, an employer has fewer than 15 employees, a covered employee will accrue 1 hour of Sick Time for every 35 hours that he or she works up to a maximum of 24 hours. During the first year that the PSDA is in effect, employers with fewer than 15 employees may designate this Sick Time as **unpaid**. After the first year, these employers must designate the Sick Time as **paid**. An employer's written policies, however, may establish the accrual of Sick Time to be in increments of a fraction of an hour. When an employer calculates its number of employees, it must include owners and part-time employees in its employee count; e.g., a part-time employee must

count as 1 employee, not a fraction of an employee. Under the Guidelines, an employer should use the highest number of employees that it has at any one time if the number of its employees has varied over the past 12 months.

How much leave can employees accrue?

The accrual cap differs depending on the number of employees that an employer has. For employers with 15 or more employees, workers can accrue up to 40 hours of paid Sick Time each calendar year. For employers with fewer than 15 employees, workers can accrue up to 24 hours of unpaid Sick Time during the first year that the PSDA is in effect and 24 hours of paid Sick Time thereafter.

Can employees carry over their sick time?

It depends. If employees accrue Sick Time as they work, the employees can carry their accrued but unused Sick Time to the next calendar year up to the permissible thresholds. If, however, an employer front-loads employees' Sick Time for the year on January 1, employees cannot carry over their unused Sick Time from the previous year.

What if an employer already provides employees with time off?

If an employer already has a paid sick leave policy, gives employees the same or more time off than they would receive under the PSDA, and the employees can use that time off for the same purpose, it does not need to provide them with additional leave. This means that if the employer provides paid time off ("PTO") for use for sick leave as well as for vacation, then the employer does not need to provide additional Sick Time. The employer's PTO policy, however, must comply with the requirements of the PSDA with respect to the accrual and the use of the PTO by the employees.

What does the PSDA prohibit?

The PSDA prohibits an employer from discriminating or retaliating against employees who request or use Sick Time, report or attempt to report a violation, participate in an investigation or any proceedings under the PSDA, or otherwise exercise their rights under the PSDA. The PSDA also prohibits an employer from requiring its employees to find coverage when they take Sick Time and requesting proof for their leave, unless they have been off work for three or more consecutive days.

Is there a required posting to inform employees of their rights?

Yes. The required posting can be found by clicking on the following link: [poster](#).

What happens if you do not comply?

If an employer violates the PSDA, an employee can receive "all appropriate relief," which includes reinstatement and full restitution for all lost wages and benefits. The PSDA also states that an employer, which knowingly violates the law, can be subject to a fine of \$100 for each separate violation. During the first year the law is in effect, no fines will be issued to employers.