



Index

- 1 Overview of the Law
- 2 Covered Employees
- 3 Accrual and Rate of Pay for Sick Leave
- 4 Use of Sick Leave
- 5 Unused Paid Sick and Safe Leave
- 6 Notice from Employee
- 7 Tracking Time Away from Work
- 8 Documentation/Misuse/Recordkeeping
- 9 Free from Retaliation
- 10 Fines
- 11 Q&A
- 12 Helpful Tools
- 13 Questions



Overview of Sick and Safe Leave Law

The law provides covered employees the right to use sick and safe leave for the care and treatment of themselves or a family member to seek legal and social services assistance or take other safety measures if the employee or a family member may be a victim of any act of domestic violence or unwanted sexual contact, stalking, or human trafficking.

Which Employees are Covered?

All employees are covered regardless of their classification.

Classifications:

- Full-time employees
- Part-time employees
- Casual and Seasonal employees

Employees who live outside of NYC but work in NYC (e.g., lives in CT and comes to the NYC office twice a week)

Notice of Employee Rights: Sick and Safe Leave

Make sure the Notice of Employee Rights: Safe and Sick Leave notice displayed with the other labor law posters.

Copies of Notice of Employee Rights: Sick and Safe Leave on HR Solutions

Notice of Employee Rights: Safe and Sick Leave

If you work part time or full time at any size business or nonprofit in NYC or if you work in an NYC household as a domestic worker, you have the right to safe and sick leave to care for yourself or anyone you consider family. You have this right regardless of your immigration status. Your employer must give you this notice explaining your rights.

Amount of Safe and Sick Leave:

- All employers must provide up to 40 hours of safe and sick leave each calendar year.

Beginning January 1, 2021:

- Employers with 100 or more employees must provide up to 68 hours of safe and sick leave each calendar year.

Your employer's calendar year is: Date of Hire (DOH) to 364 days following DOH
First month Last month

You earn safe and sick leave at a rate of 1 hour for every 90 hours worked.

You have a right to PAID safe and sick leave if:

- Your employer has 5 or more employees.
- Your employer has fewer than 5 employees but a net income of \$1 million or more. (effective January 1, 2021)
- You work in someone's home as a domestic worker, for example, babysitter, housekeeper, or companionship worker. Note: The law covers 1 or more domestic workers working in a household.

You have a right to UNPAID safe and sick leave if:

- Your employer has fewer than 5 employees and a net income of less than \$1 million.

You can carry over unused safe and sick leave to the next calendar year.

Use of Safe and Sick Leave:

- Use it for your health, including to get medical care or to recover from illness or injury.
- Use it to care for a family member who is sick or has a medical appointment.
- Use it when your job or your child's school closes due to a public health emergency.
- Use it for your safety or for a family member's safety because of domestic violence, unwanted sexual contact, stalking, or human trafficking.

Your employer can require you to give advance notice of a planned use of safe and sick leave; for example, to attend a scheduled doctor's appointment or court hearing. You do not have to give advance notice of an unexpected use of safe and sick leave; for example, a sudden illness or medical emergency.

You have a right to privacy. You do not have to give your employer details about why you used safe or sick leave.

If you use more than three workdays in a row of safe and sick leave, your employer can require documentation. Your employer must reimburse you for any fees you pay for required documentation. Documentation should not include the details of your private medical or personal situation.

Required Written Disclosures about Safe and Sick Leave:

Your employer must:

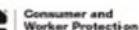
- Give you a written safe and sick leave policy that explains how to use your benefits.
- Tell you how much safe and sick leave you have used and have left each pay period.

No Retaliation:

It is illegal to punish or fire employees for requesting or using safe and sick leave or for reporting violations.



Eric L. Adams
Mayor



Vito Marcuse
Commissioner

Contact Consumer and Worker Protection to learn more or to file a complaint.

Visit nyc.gov/workers | Call 311 and ask for "Paid Safe and Sick Leave"
You can also make an ANONYMOUS tip.

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Accrual Rate and Rate of Pay

Status	Amount of Leave	Carryover	Annual Use Limit of Paid Sick Leave
Casual Part-Time and Seasonal (ALL)	Up to 56 hours of Paid Sick Leave*	56 hours	56 hours
Part-Time - Retail	Up to 56 hours of Paid Sick Leave*	56 hours	56 hours
Part-Time - Corporate, Operations & Prof. Solutions	Up to 56 hours of PTO*	56 hours	56 hours
Full-Time - Retail (0-1 yr.)**	Up to 56 hours of PTO*	56 hours	56 hours
*Full-Time - Operations (0-1 yr.)**	Up to 80 hours of PTO	56 hours	56 hours
Full-Time - Corporate & Professional Solutions (0-1 yr.)**	Up to 120 hours of PTO	56 hours	56 hours

*Accrue one hour of Paid Sick Leave for every 30 hours worked

** After the first year of employment, employees will follow the standard PTO plan for full-time employees, except for the carryover of 56 hours instead of the normal 40 hours. Annual use limit of 56 hours of Paid Sick Leave will continue.

What are Acceptable Reasons to Use Paid Sick and Safe Leave?

Employees can use leave for themselves or a family member for:

- An employee's or a covered family member's mental or physical illness, injury or health condition, regardless of whether the illness, injury or health condition has been diagnosed or requires medical care at the time the employee requests leave;
 - Note: This includes recovery from the side effects of the COVID-19 Vaccine
 - An employee's or family member's diagnosis, care or treatment of a mental or physical illness, injury or health condition; need for medical diagnosis; or preventive care;
 - The employee's or a family member's elective surgery, including organ donation; (**applicable only to employees working in NYC**)
- If the employee's workplace or the employee's child's school or childcare provider closes by order of a public official because of a public health emergency (i.e., a public health emergency must be declared by NY's Governor or an official from the NY Department of Health)
 - An employee or family member is the victim of domestic violence, a family offense, a sexual offense, stalking or human trafficking, and the employee needs time off from work to do the following (as related to the domestic violence, family offense, sexual offense, stalking or human trafficking):

What are Acceptable Reasons to Use Paid Sick and Safe Leave?

- Obtain services from a domestic violence shelter, rape crisis center or other services program;
- Participate in safety planning, temporarily or permanently relocate or take other actions to increase the employee's or family member's safety;
- Meet with an attorney or other social services provider to obtain information and advice on, and prepare for or participate in, any criminal or civil proceeding;
- Meet with a civil attorney or other social service provider to obtain information and advice on, and prepare for or participate in, any criminal or civil proceeding, including but not limited to matters related to including but not limited to matters related to family offense matters sexual offenses, stalking, human trafficking, custody, visitation, matrimonial issues, orders of protection, immigration, housing, and discrimination in employment, housing or consumer credit; (**only applicable to employees working in NYC**)
- File a complaint or domestic incident report with law enforcement;
- Meet with a district attorney's office;
- Enroll children in a new school; or
- Take any other action necessary to ensure the employee's or family member's health, physical, psychological, economic health, or safety or to protect those who employee or work with the employee.

An employee is not eligible to take sick leave if they committed the domestic violence, family offense, sexual offense, stalking or human trafficking and were not the victim.

Who Is A Family Member Under the Law?


The law recognizes the following as a family member:

- Child (biological, adopted, or foster child; legal ward; child of an employee standing *in loco parentis*)
- Grandchild
- Spouse
- Domestic Partner
- Parent
- Grandparent
- Child or parent of an employee's spouse or domestic partner
- Sibling (including a half, adopted, or step sibling)
- Any other individual whose close association with the employee is the equivalent of a family relationship (applicable to New York City).



What Happens to Unused Sick and Safe Leave?

Employees continue to accrue up to 56 hours of sick and safe leave in addition to the sick and safe leave hours carried over from the previous year



Employers are only required to allow employees to use up to 56 hours of sick leave per calendar year



If a part-time employee is rehired the employer will reinstate previously accrued and unused sick and safe leave (as outlined in the Employee Guide).

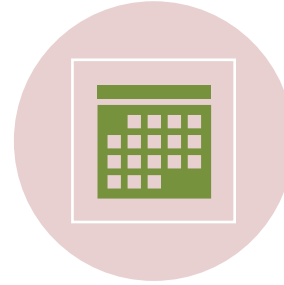
Are Employees Required to Give Advance Notice to Use Sick and Safe Leave?

- Yes, if the need is foreseeable, a manager can require advance notice before employee uses sick and safe leave. The employee may make the request verbally or in writing. – For example, scheduled doctor's appointment
- Yes, if the need is unforeseeable, a manager may require employee to give notice as soon as practicable (reasonable). – For example, employees will not be permitted to come in an hour late without prior notification, and then say that they wish to use PTO/Paid Sick and Safe Leave.

What Documentation is Needed in for the Safe and Sick Leave?



If an employee uses more than 3 consecutive workdays as sick leave, the manager can require documentation from a licensed healthcare provider.



The manager cannot require a provider to specify the medical reason for the sick leave; **only the time away from work is justifiable**



A workday does not need to be a full day if the employee works part-time



Managers may require employee to provide written verification that employee used sick leave for sick and safe purposes.

Cost for documentation: If the employee will incur cost for obtaining the documentation from the medical professional or authority, we will forgo the documentation.

How to Input and Track an Employee's Use of Paid Sick and Safe Leave

Managers should code the time away from work as follows:

- If under a PTO policy, select “PTO” in Kronos. PTO will be deducted from the employee's PTO balance; OR
- If under a Paid Sick Leave Plan Only, select “Sick” in Kronos.

Note: the process described above may not be applicable for all Brands

Possible Signs of Misuse of the Earned Sick and Safe Leave

**Below
are
possible
signs,
but not
limited
to:**

Repeated use of unscheduled Paid Sick and Safe Leave on or adjacent to weekends, regularly scheduled days off, holidays, vacation, or pay day.

Taking leave on days when other leave has been denied.

A pattern of taking leave on days when the employee is scheduled to work a shift or perform duties perceived as undesirable.

Evidence that an employee engaged in an activity that is not consistent with the employee being sick or using sick leave for a preventative medical appointment

How to Address Concerns of Misuse of the Earned Sick and Safe Leave: Do the following -

Step 1 - Collect this information -

- Name of the employee
- Employee ID number
- Job Title
- Reporting manager
- Location/Brand
- What is the date of alleged misuse?
- Why do you believe the sick and safe leave is being misused by the employee?
- Was the sick and safe leave approved by a manager?
- Did the employee provide verification that they were taking leave under the approved reasons?

Step 2 - Open a case in [Employee Relations e-Service](#)

Step 3 – Take your notes from Step 1 and enter the notes into the record

Step 4 – Someone will be in touch with you to provide guidance on next steps.

Step 5 – If urgent, please contact your HR Business Partner or Employee Relations team immediately

What Does Right to Be Free From Retaliation Mean?

- Cannot count a covered absence against an employee that is under the attendance policy
- Forcing an employee to find a replacement before approving their request to use sick/safe leave
- Retaliation is any act that is reasonably likely to discourage or prevent an employee from exercising their rights under the paid sick and safe leave law.
- A form of retaliation is demoting an employee from Team Lead to Sales Associate as a direct result of the employee requesting to use or using their paid sick and safe leave hours. Other forms of retaliation includes any threat, discipline, discharge, suspension, reduction in hours, or any other adverse employment action against employee.
- Managers/Supervisors cannot retaliate against employees for requesting or using sick leave.



What Records Must Be Retained?

Managers/Supervisors are required to save related employee documentation in a lock cabinet/box or an onsite secure location. Ensure used sick/safe time leave is properly recorded in Kronos.

The Company is required to keep and maintain sick and safe Leave records.

Remember to keep employee's health-related information confidential and secured.

What Are Maximum Penalties Under the Law?

The law outlines the following maximum penalties:

- \$500 for each affected employee for the first violation.
- Up to \$750 for each affected employee for a second violation within 2 years of a prior violation.
- Up to \$1,000 for each affected employee for subsequent violations that occur within 2 years of any previous violation.
- Up to \$50 for each employee who was not given the required written Notice.



Q&As

Q. Can an employee be required to find coverage for their absence?

A. No. An employee is not required to find a replacement to cover their shift but is encouraged to seek out and participate in voluntary shift trades.

Q. Can Paid Sick Leave count as an absence under the attendance policy?

A. No. It is unlawful for employers to count Paid Sick Leave as an absence that may result in discipline, discharge, demotion, suspension, or any other adverse action. However, any related absences extending beyond an employee's accrued PTO/Paid Sick Leave balance will count as an unexcused absence, provided the absence is not covered by a Company-approved leave of absence or other applicable law.

Retaliation against any employee that asserts his or her rights to receive Paid Sick Leave is prohibited.

Q. Are we required to pay out an employee's accrued, unused Paid Sick Leave when the employee terminates?

A. Part-time employees will not be paid out their remaining Paid Sick Leave balance on termination. Full-time and non-retail employees will be paid out their remaining PTO balance per current PTO policy.

Q&As – cont'd

Q. What if an employee's employment status changes in a calendar year? (see FAQs)

A.

- **Part-Time to Full-Time:** If an employee's status changes from part-time to full-time, their status change date will be the date used to determine when full-time rules begin to apply. Retail part-time employees and all casual part-time employees will not lose the Paid Sick Leave they have accrued and will need to e-mail Kronos@luxotticaretail.com to request that their remaining accrued Paid Sick Leave be transferred to PTO hours.
- **Full-Time to Part-Time:** If an employee's status changes from full-time to part-time and they are not eligible for a part-time PTO plan, up to 56 hours of PTO will be transferred to Paid Sick Leave. Any accrued, unused PTO hours beyond the 56-hour Paid Sick Leave requirement will be paid out at the time of their status change. They will then be eligible to begin accruing Paid Sick Leave under the part-time Paid Sick Leave plan.

Q&As – cont'd

Q. Are we required to pay out an employee's accrued, unused Paid Sick Leave when the employee terminates?

A. Part-time employees will not be paid out their remaining Paid Sick Leave balance on termination. Full-time employees will be paid out their remaining PTO balance per current PTO policy.

Q. Is the Sick and Safe Leave time for pay received for non-working time?

A. No, employees do not accrue leave for payments that are not for hours worked, such as bonuses. 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.

Q. Can an employee use Sick and Safe Leave for doctor, dentist, eye doctor, or other routine appointments?

A. Yes, employees may use Sick Leave for appointments when they require treatment for a condition or for preventive medical care.

Helpful Tools

The following documents will be placed on HR Solutions>Benefits, PTO & Holidays>Paid Sick and Safe Leave>[Paid Sick Leave](#)>New York and HR Business Partners – [Compliance/ER Resource Teams](#)

- New York and New York City Safe and Sick Leave FAQs
- New York City Notice of Employee Rights: Safe and Sick Leave in various language translations

Thank you!

For questions contact your respective HR Business Partner.
Escalation of an issue send an email message to HRCompliance@luxotticaretail.com.