

JERSEY CITY'S EARNED SICK LEAVE ORDINANCE

Jersey City Municipal Code, Chapter 4 - Paid Sick Time

FREQUENTLY ASKED QUESTIONS

THE AMENDED LAW TOOK EFFECT ON DECEMBER 28, 2015

The Jersey City Municipal Council recently amended the Jersey City Earned Sick Leave Law. The law requires all full-time, part-time and temporary employees, who work in Jersey City for at least eighty (80) hours in a calendar year and who are not specifically exempted, to be eligible for up to a maximum of forty (40) hours of paid sick leave per year. Below are the answers to some frequently answered questions.

FOR EMPLOYERS

Is this new Ordinance a part of Obamacare?

No. This is a municipal ordinance and is not a part of the Affordable Care Act, commonly known as Obamacare.

What if my company employs less than 10 workers, are the employees eligible for sick leave?

Yes. Employers who employ **less** than ten (10) employees must provide a maximum of twenty-four (24) hours of paid sick leave per year pursuant to the following formula: one (1) hour of sick leave for every thirty (30) hours worked. However, once these individuals have exhausted their 24 hours of paid sick leave, they are entitled to an additional sixteen (16) hours of **unpaid** sick leave. An exception to this provision are child care workers, home health care workers and food service workers who are entitled to forty (40) hours of paid sick leave per year **regardless** of the size of the company they work for.

Does it matter whether an employee is full-time or part-time?

No. Full-time/part-time status is determined by the employer. The earned sick leave law makes no distinction between part-time and full-time employees. Anyone who works 80 hours in a calendar year in Jersey City is an employee for the purposes of the law.

All my employees were hired pursuant to a collective bargaining agreement that does not provide sick leave. Will this law change our agreement?

No. Your current labor agreement remains as is and the new law cannot alter it.

Do I have to retain records that the City can review, documenting the number of hours my employees work and how much paid sick time they've taken?

Yes, for three years, and the City reserves the right to access these records.

What will happen if I don't retain these records?

Failure to provide the records upon demand will "create a rebuttable presumption" that you have violated the Ordinance.

Do I have to inform employees about the City's sick time law?

Yes. You will be required to give each employee written notice regarding their rights under the new law.

Do I have to display anything in my business about the law?

Yes. You must display this poster in a "conspicuous and accessible" place in each business.

If most of my workforce speaks Spanish, do I have to provide and display Spanish-language notices and posters?

Yes. You must provide a translation of the notices and posters in any language that is the first language of at least 10 percent of the workforce.

Can I be fined if I don't provide notice?

Yes. Not providing notice of the new law can result in a fine up to \$100 for each employee who was not given notice and \$500 for each place of business where a poster was not displayed.

If an employee asks to use sick time to care for an ailing family member, can I ask that the employee describe the family member's condition?

No.

I own a small business with eight employees at one location and seven at another location. How do I calculate the amount of sick leave that I must provide to my employees?

Because you employ a total of ten (10) or more employees, you must provide a maximum of forty (40) hours per year.

I already provide a sick leave policy that is more generous than what is required by the Ordinance. Do I have to amend it to bring in line with the City's law?

No. Nothing in the law prevents you from providing more generous benefits.

I already provide an identical benefit to my employees but it is called "personal leave" and not "sick leave." Do I have to provide "sick leave" in addition to the benefit I am already providing to my employees?

No. If the personal time benefit meets the same accrual requirements of the new law and can be used for the same purposes and under the same conditions as earned sick time, then you do not have to provide additional earned sick time.

FOR EMPLOYEES

Who is eligible?

Full-time, part-time and temporary employees, who work in Jersey City for at least eighty (80) hours in a calendar year and have worked a minimum of (90) days.

Who is not eligible?

Employees of any governmental entity, members of a trade or construction union, employees subject to a collective bargaining agreement, registered apprentices, freelancers and independent contractors.

How much earned sick time am I eligible for?

It depends. If you are an employee of a company which employs ten (10) or more employees, you are eligible for up to a maximum of forty (40) hours per year pursuant to the following formula: one (1) hour of sick leave for every thirty (30) hours worked.

If you are an employee of a company which employs **less** than ten (10) employees, you are eligible for up to a maximum of twenty-four (24) hours of paid sick leave per year pursuant to the following formula: one (1) hour of sick leave for every thirty (30) hours worked. Once you have exhausted your 24 hours of paid sick leave, you are entitled to an additional sixteen (16) hours of **unpaid** sick leave. However, if you are a child care worker, home health care worker or a food service worker, you are entitled to forty (40) hours of paid sick leave per year **regardless** of the size of the company you work for.

Does it matter whether I am a full-time or part-time employee?

No. Full-time/part-time status is determined by the employer. The earned sick leave law makes no distinction between part-time and full-time employees. Anyone who works 80 hours in a calendar year in Jersey City is an employee for the purposes of the law.

Am I eligible to take sick time as soon as I start working?

No. Although you begin to accrue paid sick time beginning on your very first day of work, you are not entitled to use any paid sick time until your 90th calendar day of employment.

Can I carry over my unused sick leave?

Yes, but your employer isn't required to give you more than 40 hours annually. City officials included this requirement so that you don't go back to zero accrued sick time every January 1st.

Can I receive payment for any unused sick leave if I quit?

No. The law doesn't require employers to reimburse employees for unused time.

I lost my job and was the rehired by the same company. Do I lose my accrued sick time?

Not if you were rehired within six months. If longer than six months, you lose your accrued sick time.

My company was just bought out by another firm. Do I lose my accrued sick time?

No. If one company purchases another, employees of the original company retain their accrued sick time.

Can I only use my sick time if I am sick?

No. You can also use your sick time if you need to go to the doctor for preventive care or if you need to care for a family member (a child, parent, spouse, civil union partner, domestic partner, grandparent, grandchild or sibling) who is ill or needs to go to the doctor. Sick time can also be used if your place of employment or your child's school is closed due to a public health emergency.

If I use all the sick leave I am entitled to, can I get in trouble with my boss?

No. The law forbids employers from retaliating against employees who use the sick time they are entitled to.

What do I do if I believe my employer isn't granting me sick time I am entitled to?

You have two options: You can call the Jersey City Department of Health and Human Services, (201) 547-6800,

For more information, please visit the city website at: <http://www.jerseycitynj.gov/business.aspx?id=13851>