

**City of Portland | Proposed Sick Time Ordinance
FAQ for Employers | January 2013**

On January 17, 2013, Commissioner Amanda Fritz proposed a sick time policy to improve the public and economic health of working people in Portland and, in turn, the city as a whole. We compiled these Frequently Asked Questions so Portland employers can understand how the policy would work and why it is a step forward for our community.

Q: Would this policy affect my Portland business?

A: This policy applies to employees who work within the geographic boundaries of the city for 240 hours or more in a calendar year. If you already allow your employees to accrue 5 or more paid sick days, PTO or paid vacation that can be used without notice for sick purposes per year, this new policy *will not affect you* because your existing policy already meets the proposed minimum requirement.

Q: What does the proposed law require?

A: This depends on the size of your business or organization.

If you employ 5 or fewer people, the proposed law would mean:

- Full- and part-time employees would accrue one hour of *unpaid* (but job-protected) sick time for every 30 hours worked, up to a maximum of 40 hours per calendar year.
- It would be illegal to fire or retaliate against someone for taking the sick time they have earned.
- You would need to track employees' accrual and usage of sick days, and record-keeping should remain consistent with current standards under state law.
- You may exceed the standard by giving your employees paid time, or by exceeding 40 hours/year in leave, but would not be required to do so.

If you have 6 or more employees, the proposed law would mean:

- Full- and part-time employees would accrue one hour of *paid*, job-protected sick time for every 30 hours worked, up to a maximum of 40 hours per calendar year.
- It would be illegal to fire or retaliate against someone for taking the sick time they have earned.
- You would need to track employees' accrual and usage of sick days, and record-keeping should remain consistent with current standards under state law.
- You may exceed the standard by giving your employees paid and unpaid time off beyond 40 hours/year, but would not be required to do so.

Q: Does the sick time accrue from year to year or pay out upon termination?

A: Unused, accrued sick time can roll over to a new year, but you are never required to allow an employee more than 40 hours of sick time in one calendar year. You are not responsible for paying an employee for unused sick time upon termination, resignation, retirement, or other separation from employment.

Q: Does PTO count?

A: Yes. If you have a PTO ("Paid Time Off") policy in place that meets the minimum requirements of this policy (see above), then you are already in compliance.

Q: What about temporary employees -- are they included?

A: The law applies to employees that work 240 hours or more in a year in Portland.

Q: What about employers with employees who work in Portland and elsewhere?

A: The law only covers those employees that work 240 hours or more in Portland.

Q: What can employees use sick time for?

A: Employees who have earned sick time can use it for their own health, to care for the health of a family member, or to address issues caused by domestic violence, sexual harassment, assault or stalking.

Q: What safeguards are there against possible employee abuse?

A: Safeguards against possible employee abuse that are incorporated into the policy include:

- You may send an employee home and require that they use their sick time if they are obviously sick when they report to work.
- Shift-trading is allowed if it is mutually agreed upon by the employer and employee and takes place in the same or next pay period. However, you *may not require* the employee to find a replacement as a condition for taking the sick time.
- In cases where there is a *pattern* of abuse or absences of more than 3 consecutive days, you may require a licensed health care provider's note before any paid or unpaid sick leave is approved. However, under existing Oregon law you would be required to pay the costs associated with procuring that note. As an alternative, you may require the employee to submit a signed personal statement that the leave was for a purpose covered by the ordinance.
- As with any other employee concern, you may investigate a documented pattern of abuse in an employee's unscheduled use of sick time and notify the employee of concerns.

Q: How likely is employee abuse?

A: Although some employers and employees can think of individual cases where employees or co-workers have misused sick time, the findings from San Francisco and across the country show that such misuse is in fact rare. Nationally, workers with access to paid sick time use an average of 2.2 days a year in small firms and 3.1 days a year in large firms.¹ Data from San Francisco has shown that workers take a median of 3 sick days a year, even when they have more days available to them.

Learn more here:

- Visit: <http://www.everybodybenefitspdx.org>
- Read *Understanding Paid Sick Time: A Guide for Employers*: <http://bit.ly/SickTime4Employers>
- Read the draft ordinance: <http://bit.ly/draftsicktimeordinance>
- Contact Family Forward Oregon: 503-928-6789 or lisa@familyforwardoregon.org

¹ Institute for Women's Policy Research, Analysis of data from the 2008 National Health Interview Survey, 2010.