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Minneapolis Issues Sick and Safe Time Ordinance

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On May 27, 2016, the Minneapolis City Council passed the Minneapolis Sick and Safe Time Ordinance, guaranteeing paid "sick and safe" leave for most employees working within city limits and unpaid "sick and safe" leave for many others. The law is effective July 1, 2017. The mayor approved amendments on September 28, 2016, and further guidance may be forthcoming in the future, but here is what Minneapolis employers need to know now:

Which Employers are Covered?

The Ordinance applies to any employer with one or more employees, but only employers with six or more employees are required to offer paid sick and safe time. In determining whether an employer meets the six or more employee threshold, all individuals performing work for the employer on a full-time, part-time or temporary basis are included, whether or not such individuals work in the city of Minneapolis. Employees who are employed jointly by two employers must be counted by both employers.

In terms of public employers, the City of Minneapolis is covered by the law; the U.S. government, State of Minnesota and county and other local government are not covered. Certain new employers are not required to provide **paid** sick leave within the first 12 months of hiring the employer's first employee, even if they have six or more employees.

Which Employees are Covered?

The law provides sick and safe time leave to all employees who work at least 80 hours a year within the geographic boundaries of Minneapolis. The sick and safe time leave is **paid** if the employee works for an employer that has six or more employees. For employees who work for an employer with five or fewer employees, the law provides for **unpaid** sick and safe time leave.

The law does not cover independent contractors. In addition, employers that employ construction workers and construction worker apprentices can comply with the law by paying the prevailing wage rate or a rate established by a registered apprenticeship agreement.

The law further states that an employee who is a health care provider may only use sick and safe time when the health care provider has been "scheduled to work." For purposes of the law, a health care provider **is not** "scheduled to work" if the individual chooses to call in and request a shift within 24 hours, or when a health care provider has merely been asked to remain available or on call, unless the provider has been asked to stay on an employer's premises.

What Paid or Unpaid Time is Required?

Eligible employees accrue one hour of "sick and safe" time for every 30 hours worked up to a maximum of 48 hours in a calendar year. Sick and safe time accrues only in one hour increments. Employees can begin using accrued time 90 days after beginning employment and they must be permitted to carry over accrued but unused sick and safe time from one year to the next. However, the total accrued but unused time for an employee may be capped at 80 hours. An employer may satisfy its obligations by providing at least 48 hours of sick and safe time following the initial 90 days of employment for use by the employee during the first calendar year, and then at least 80 hours of sick and safe time beginning each subsequent calendar year. Sick and safe time is paid at the employee's regular rate of pay, excluding for instance tips, commissions, expense reimbursement, overtime premiums and bonuses.

The Ordinance does not require employers to provide additional sick and safe leave if the employer maintains a paid time off or other paid leave policy that meets the accrual and other requirements of the law.

Employees may use accrued sick and safe leave for any of the following reasons:

1. An absence due to the **employee's mental or physical illness, injury, or health condition,** need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or preventive medical or health care.
2. An absence for **the care of a family member with a mental or physical illness, injury or health condition,** a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition, or a family member who needs preventative medical or health care.
3. An absence due to **domestic abuse, sexual assault, or stalking of the employee or employee's family member** provided the absence is to: seek medical attention related to physical or psychological injury or disability caused by domestic abuse, sexual assault, or stalking; obtain services from a victim services organization; obtain psychological or other counseling; seek relocation due to domestic abuse, sexual assault or stalking; or to take, prepare or participate in any civil or criminal proceeding related to or resulting from

domestic abuse, sexual assault, or stalking.

4. A absence due to the **closure of the place of business by order of a public official** to limit exposure to an infectious agent, biological toxin or hazardous material or other public health emergency.
5. To accommodate **the employee's need to care for a family member whose school or place of care has been closed by order of a public official** to limit exposure to an infectious agent, biological toxin or hazardous material or other public health emergency.
6. To accommodate the employee's need to care for a family member whose school or place of care has been closed due to inclement weather, loss of power, loss of heating, loss of water, or other unexpected closure.

Employers must allow employees to take this leave in increments consistent with current payroll practices as defined by either industry standards or existing employer policies, as long as the increment is not more than four hours.

Upon request by an employee, the employer must report an employee's use and accrual of leave in writing.

Are There Additional Requirements and Protections?

The Ordinance has a number of additional requirements and protections. For instance, the employer must maintain records for each employee as follows: the hours worked for each nonexempt employee, and for each employee, whether exempt or nonexempt, the hours of available sick and safe time leave, and sick and safe time used. Employers must also treat health and medical information, among other information, of the employee and the employee's family members confidential. In addition, Employers must post a notice to be issued by the Department of Civil Rights in a conspicuous place at any workplace or job site where any employee works, describing the rights afforded by the law. Notices are required in each language spoken by 5 percent or more of the workforce in the city if published by the Department. Any employer that provides an employee handbook to its employees must also include a notice of employee rights and remedies under the Ordinance in the handbook.

As with most employment laws, the Ordinance contains broad protections against discrimination or retaliation, and provides a process for enforcement of rights and the assessment of damages and penalties in the event of a violation of the Ordinance.

What Should Employers Do?

While the law is not effective until July 1, 2017, covered employers are encouraged to review existing policies and practices, including but not limited to paid time off, leave, payroll and recordkeeping policies and practices, to ensure compliance with the new Ordinance and a smooth transition in the event changes are necessary. As the new Ordinance has many nuances, facets and requirements, employers are encouraged to seek assistance in doing so.

If you have any questions regarding the various requirements under the new Ordinance, or would like assistance in policy or process review, development or implementation to comply with the new Ordinance, please do not hesitate to contact a member of our Employment & Labor Group.