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St. Paul Passes Paid Sick and Safe Time Ordinance

Legal Update

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On September 7, 2016, the St. Paul City Council passed the St. Paul Earned Sick and Safe Time Ordinance, becoming the second city in Minnesota to guarantee paid “sick and safe” leave for employees working within its city limits. The law, which is similar but not identical to the Minneapolis Sick and Safe Time Ordinance (Minneapolis Ordinance), will go into effect on July 1, 2017, for employers with 24 or more employees, and on January 1, 2018, for employers with 23 or fewer employees. While the city may issue additional guidance, here is what employers need to know now if they have employees who work in St. Paul.

Which Employers are Covered?

The Ordinance applies to any employer with one or more employees. It does not, however, apply to the U.S. government, the state of Minnesota, or any county or local government, other than the city of St. Paul.

Notably, unlike the Minneapolis Ordinance, the St. Paul Ordinance does not exempt smaller employers from the paid leave requirements. New employers, however, are not required to provide **paid** sick leave within the first six months of hiring their first employee, though they must still provide unpaid sick and safe time.

Which Employees are Covered?

The law provides paid sick and safe time leave to all employees, including temporary and part-time employees, who work at least 80 hours a year within the geographic boundaries of St. Paul. As indicated above, new employers must provide unpaid sick and safe time during the first six months of hiring their first employee, but need not provide paid sick and safe time during this period.

The law does not cover independent contractors.

Unlike the Minneapolis Ordinance, the St. Paul Ordinance has no exemption for certain on-call healthcare workers.

What Paid Time is Required?

The time accrual and use provisions are nearly identical to those in the Minneapolis Ordinance. As of the effective date of the Ordinance, eligible employees begin to accrue one hour of “sick and safe” time for every 30 hours worked up to a maximum of 48 hours in a calendar or fiscal year. Employees can start to use accrued time after 90 days of 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. The Ordinance indicates that the carryover requirements can be satisfied by providing at least 48 hours of earned sick and safe time to employees following the first 90 days of employment for use during the first year, and 80 hours of earned sick and safe time beginning each subsequent year. The Ordinance does not require employers to provide additional sick and safe leave if the employer maintains a paid time off policy that meets the minimum standards of the law.

As with the Minneapolis Ordinance, employees may use accrued sick and safe leave for any of the following reasons:

1. An absence due to an **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 preventative medical 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 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
 - Seek legal advice or take legal action, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from domestic abuse, sexual assault or stalking.
4. An 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 to the employee, either in writing or electronically, the amount of earned sick and safe time currently available and the amount the employee has used.

Are There Additional Requirements and Protections?

The Ordinance has a number of additional requirements and protections. Among other matters, employers have specified recordkeeping requirements and must treat health, medical and other information of the employees and the employees' family members confidential. Employers must post a notice informing employees of their rights under the Ordinance and may comply with this requirement by displaying a poster to be issued by the Department of Human Rights and Equal Economic Opportunity. 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.

Like the Minneapolis Ordinance, the St. Paul law contains broad protections against discrimination or retaliation and provides an administrative process for enforcement of rights and the assessment of damages and penalties in the event of a violation of the Ordinance. However, unlike the Minneapolis Ordinance, the St. Paul law gives employees the option to bring a private lawsuit in district court if they believe they have been retaliated against and allows the employee to recover costs and attorneys' fees, among other relief, if successful.

What Should Employers Do?

While the law is not effective until July 1, 2017 (or January 1, 2018, if the employer has 23 or fewer employees), 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 reviewing, developing or implementing policies or processes to comply with the new Ordinance, please do not hesitate to contact a member of our Employment and Labor Group.