



COMPLIANCE BULLETIN

HIGHLIGHTS

- Employees will accrue one hour of paid sick leave for every 35 hours worked.
- Employers may implement a waiting period of up to 90 days before employees may use accrued paid sick leave.
- Employers may avoid tracking accruals by providing employees with the full amount of leave at the start of the year.

IMPORTANT DATES

July 1, 2018

Rhode Island's paid sick leave requirements become effective.

Rhode Island Enacts Paid Sick Leave

OVERVIEW

On Sept. 28, 2017, Governor Gina Raimondo signed the [Healthy and Safe Families and Workplaces Act](#) (Act) into law. The Act requires Rhode Island employers with 18 or more employees to provide paid sick leave to employees **effective July 1, 2018**. Annual maximum paid sick leave accruals will be phased in as follows:

- ✓ Up to **24 hours** during the **2018** calendar year;
- ✓ Up to **32 hours** during the **2019** calendar year; and
- ✓ Up to **40 hours each calendar year after 2019**.

Employers with **fewer than 18 employees** must provide employees with unpaid, job-protected sick leave in the same amounts.

ACTION STEPS

Employers should review their existing leave and attendance policies to determine if any changes should be made to comply with the Act's requirements. Employers should also monitor developments related to the new sick leave law, including the issuance of implementing regulations.

Provided By:

Touchstone Consulting Group

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Covered Employers

Employers with 18 or more employees in Rhode Island must provide employees with paid sick leave, effective July 1, 2018. Employers with fewer than 18 employees must provide employees with unpaid leave to be used for the same purposes as provided for under the Act and in the same amounts.

Employers that have paid leave policies providing (at a minimum) the annual amount of leave required under the Act and allowing employees to use leave for the same purposes are not required to comply with the new law's accrual and carryover requirements.

Eligible Employees

Virtually all Rhode Island employees are eligible for paid sick leave, or unpaid job-protected leave, depending on the size of their employer. However, independent contractors, subcontractors, federal work-study participants and interns are specifically excluded from being covered under the Act.

Accrual and Carryover of Leave

All eligible employees, including temporary and seasonal employees, must begin accruing paid sick leave as follows:

| Current Employees | New Employees |
|--|--|
| Current employees must begin accruing paid sick leave on July 1, 2018 . | Employees who are hired after July 1, 2018 , must begin accruing paid sick leave upon hire . |

Employees must accrue at least **one hour of paid sick leave for every 35 hours worked**, up to the annual maximum. Maximum annual accruals will be phased in as follows:

| 2018 Calendar Year | 2019 Calendar Year | 2020 and Thereafter |
|-----------------------------------|-----------------------------------|-----------------------------------|
| Up to 24 hours of paid sick leave | Up to 32 hours of paid sick leave | Up to 40 hours of paid sick leave |

To avoid having to track (and carry over) employee accruals, employers may provide employees with a lump-sum of paid sick leave (at least 24 hours in 2018, 32 hours during 2019 and 40 hours per calendar year thereafter) available for use at the beginning of each year.

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In general, employees must be permitted to carry over accrued, but unused paid sick leave to the next calendar year. However, employees may be restricted to using only up to 24 hours in 2018, 32 hours in 2019 and 40 hours each calendar after 2019, regardless of the employee's amount of accrued paid sick leave. Also, it appears that an employer can transition from an accrual-based system to a front-loading system by paying an employee for unused sick time at the end of the year and providing the employee with the required amount of paid leave time for the next calendar year at the beginning of that year.

Use of Paid Sick Leave

Paid sick leave may be used by an eligible employee for:

| | |
|---|--|
| 1 | An employee's own mental or physical illness, injury or health condition, including the need for medical diagnosis, care or treatment, and preventive medical care; |
| 2 | Care of the employee's family member with a mental or physical illness, injury or health condition, including the family member's need for medical diagnosis, care or treatment, and preventive care; |
| 3 | <ul style="list-style-type: none">• Closure of the employee's place of business by order of a public official due to a public health emergency;• Care for an employee's child whose school or place of care has been closed by order of a public official due to a public health emergency; or• Employee's care for himself or herself or care for a family member when it has been determined by the health authorities or a health care provider that the employee's or family member's presence in the community may jeopardize the health of others due to a communicable disease, regardless of whether the employee or family member actually has the disease. |
| 4 | Time off needed when the employee or an employee's family member is a victim of domestic violence, sexual assault or stalking. |

An employee must be paid his or her same hourly rate and with the same benefits (including health care benefits) that the employee normally earns during hours worked.

Employers may set a minimum increment for the use of paid sick and safe leave, not to exceed four hours per day.

Family Member

For purposes of the sick leave law, "family member" includes the employee's child, parent (including parents-in-law), grandparents, grandchildren, domestic partner, sibling, care recipient or a member of the employee's household. A "care recipient" is a person for whom the employee is responsible for providing or arranging health- or safety-related care.

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Waiting Periods

Employers may require that employees satisfy a **90-day waiting period** prior to being able to use any accrued paid sick leave. The following special waiting period rules apply to temporary and seasonal employees:

- **Temporary employees** may be required to satisfy a **waiting period of up to 180 days** prior to using accrued paid sick leave.
- **Seasonal employees** may be required to satisfy a **waiting period of up to 150 days** prior to using accrued paid sick leave.

Notice Requirements

Paid sick leave must be provided to an eligible employee upon his or her request. An employee's request to use paid sick leave may be made orally, in writing, electronically or by any other means acceptable to the employer.

When the need for leave is foreseeable, employees should provide the employer with advance notice and make a reasonable effort to schedule the leave so as to not unduly disrupt the employer's operations. An employer may require employees to provide notice of paid sick leave use when the need for leave is not foreseeable. However, the employer must have a written policy outlining the procedures employees must follow to provide notice.

Employee Documentation

Employers may require that employees who use three or more consecutive days of paid sick leave provide reasonable documentation that their absence was for a covered purpose. Employers must notify employees in advance, in writing, of the requirement to provide this reasonable documentation.

Employers may also require documentation of an employee's use of paid sick leave when taken within two weeks prior to an employee's scheduled final day of work or before termination of employment. This is true even if the employee does not use three or more consecutive days of paid sick leave.

An employer's requirement for documentation may not result in unreasonable burden or expense on the employee. Information obtained by an employer must be kept confidential.

Termination and Rehire Requirements

Termination

Employers are **not** required to pay out an employee's accrued, but unused paid sick leave upon termination or other separation of employment.

Rehire

An employee that is **rehired within 135 days** is entitled to have his or her previously accrued, but unused paid sick leave reinstated. In addition, the employee must be permitted to use accrued sick leave upon rehire.

Uniformity for Paid Sick Leave Requirements

In an effort to create uniform sick leave requirements across Rhode Island, the Act prohibits municipalities from establishing, mandating or otherwise requiring an employer to provide benefits in excess of those required under the Act.

More Information

The [Rhode Island Department of Labor and Training](#) will issue guidelines and regulations to implement the paid sick leave law. The regulations implementing the Act may include employer notice or workplace posting requirements, which are not specified under the Act itself. Implementing regulations may also include specific employer recordkeeping requirements.