

## **The D.C. Accrued Sick and Safe Leave Act**

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The District of Columbia's "Accrued Sick and Safe Leave Act" will take effect on November 18, 2008. Washington D.C. is only the second city in the nation to enact a law that requires employers to provide paid sick days for their employees. It is the first city to require employers to provide "safe" days for victims of sexual assault, stalking, or domestic violence.

### *General Provisions*

The D.C. Accrued Sick and Safe Leave Act applies to all private and government employers. The number of sick or safe days each organization must provide depends on the size of the employer:

- 0 - 24 employees: 1 hour per every 87 hours worked
- 25 – 99 employees: 1 hour per every 43 hours worked
- 100 + employees: 1 hour per every 37 hours worked

Employers in the smallest category must provide at least 3 sick and safe days per year. Employers in the middle category must provide at least 5 sick and safe days per year. The largest employers must provide at least 7 sick and safe days per year. Employers are permitted to allow more, but no fewer than the minimum number of annual sick and safe days, as dictated by the schedule.

An employee may "roll over" any unused sick and safe days into the following year. Employers, however, are not they required to compensate employees for their sick or safe leave balance upon termination of employment.

An employee begins to accrue sick and safe days on the first day of employment, though the employee cannot access her time until she has completed 90 days of service. The law does not apply to all employees; independent contractors, full time students, certain health care workers, and waiters and bartenders who make a combination of wages and tips are excluded from the Act.

### *"Sick" Leave*

Employees may use their accrued time for their own medical care, or to assist with the medical care of a family member. Medical care includes everything from emergency visits to preventative treatment. The term "family member" is also defined broadly by the Act. It includes children, grandchildren, foster children, spouses, siblings, siblings' spouses, children's spouses, parents, grandparents, and domestic partners. A domestic partner is defined as anyone with whom the employee maintains a committed relationship and with whom the employee has lived with for the past year.

### *"Safe" Leave*

An employee may also use accrued time if the employee or employee's family member is the victim of stalking, domestic violence, or sexual abuse. The employee's absence must be "directly related" to seeking social services, legal services, or medical attention as a result of the violent or abusive conduct. The employee's time can be used

to obtain help from a victim services organization, prepare for legal action against the offender, or to relocate. The employee may also use accrued safe time take “any other action” to enhance the employee’s own safety and economic health, or the safety and economic health of her family members.

### *Notice Requirements*

To the extent a leave event is foreseeable, an employee is must provide her employer with a written request at least 10 days in advance of the proposed leave date. If the need for paid leave is unforeseeable, the employee must notify her employer prior to the start of the next work shift. If an employee has taken three or more consecutive days of paid leave, the employer can request certification such as a physician’s note or a police report.

District of Columbia Mayor’s office is charged with preparing a notice that summarizes the terms and complaint procedures provided by the Sick and Safe Leave Act. Employers are required to post and maintain this notice in a conspicuous place.

### *Penalties for Noncompliance*

Any employer who violates the Sick and Safe Leave Act is subject to a civil penalty of \$500 for the first offense, \$750 for the second offense, and \$1000 for each subsequent offense. An employer who violates only the posting requirement is subject to a \$100 fine for each day the employer fails to post the notice. The Act also contains provisions that make it unlawful for employers to discriminate or retaliate against employees who use their paid leave, or employees who file a complaint against the employer related to the Act.

### *How to Prepare your Company*

While the law does not take effect until November 2008, D.C. employers should begin to review their current leave policies to asses whether they are in compliance with the Act’s requirements. Employers should ensure they provide at least the minimum number of sick or safe days per year, and that time is accrued according the Act’s schedule.

If you have any questions about how to bring your company’s policies into compliance with the D.C. Accrued Sick and Safe Leave Act, please contact Thomas McCally or Tina Maiolo.