

HEALTH CARE FOCUS: A PORTLAND SICK LEAVE LAW PRIMER FOR EMPLOYERS

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Beginning Jan. 1 of next year nearly all businesses with employees working in Portland will be required to start providing sick leave for their employees. For the majority of those employees their sick leave will be paid time off. For any employers who weren't paying attention when this citywide ordinance was passed, this could be quite a shock. However, if employers understand the rules, compliance should not prove to be too complicated.

With the exception of federal, state, and local government agencies (other than the city of Portland), nearly all employers with employees working within Portland are covered by the ordinance. The only distinction that is made for the size of the employer is whether the new mandatory sick leave will be paid or unpaid leave. Companies employing six or more people for 240 hours or more within Portland are required to provide the leave as paid time off. Companies with five or fewer such employees must provide the same sick leave, but are not obligated to pay employees during their leave.

Only those employees who work 240 or more hours with the city limits are covered by the ordinance. Time spent traveling through the city does not count, unless the employee stops within the city to perform work-related tasks. For example, an employee whose job involves driving back and forth from Beaverton to Gresham each day, without stopping along the way to perform work tasks, will not be eligible even if the time travelling within the city limits exceeds 240 hours. However, an employee whose job involves traveling from Beaverton to Gresham and back making deliveries, including within Portland, will be able to

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count all of the time they spend within the city limits toward the 240 hour requirement.

Current employees will begin accruing the new sick leave on January 1, 2014. Employees hired after that date will begin accruing hours on their first day of work, but will not be eligible to begin using their hours during their first 90 days of employment. The sick leave will accrue at the rate of one hour of sick leave for every thirty hours they work within the city, up to a maximum of 40 hours per year. For accrual purposes, full-time exempt employees are presumed to work 40 hours per week. While employees may not accrue more than 40 hours in a year, they must be allowed to carry over their unused hours to the next year, up to a maximum of 40 hours. As they are only allowed to accrue, use and carryover 40 hours each year, the employee's sick leave bank can never exceed 80 hours, although only 40 are available for use in a year.

The bottom line: employers should read the ordinance in its entirety to ensure compliance. An on a final note, this ordinance is intended to set a floor, not a ceiling. Employers are free to provide more leave than the law requires, but they must ensure that their policies allow for at least the minimum requirements established by the ordinance and that there are no use restrictions in their current policy that would violate the ordinance.

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