



COMPLIANCE BULLETIN

HIGHLIGHTS

- All Vermont employers will be required to provide paid sick leave to their employees.
- Employers may require a one-year waiting period before allowing employees to use sick leave.
- Employers that have PTO policies that meet certain standards will not be required to provide additional paid leave.

IMPORTANT DATES

Jan. 1, 2017

Vermont employers with **six or more employees** must comply with paid sick leave requirements.

Jan. 1, 2018

Vermont employers with **five or fewer employees** must comply with paid sick leave requirements.

Provided By:

New England Employee Benefits Co.,
Inc.

Vermont Enacts Paid Sick Leave

OVERVIEW

On March 9, 2016, Vermont Governor Peter Shumlin signed [H. 187](#) into law, requiring employers to provide paid sick leave to employees.

- ✓ Vermont employers with **six or more employees** will be required to provide paid sick leave **effective Jan. 1, 2017**.
- ✓ Vermont employers with **five or fewer employees** will be required to provide paid sick leave **effective Jan. 1, 2018**.

Employers must provide up to **24 hours** of paid sick time each year to eligible employees for the first two years of applicability. **After Dec. 31, 2018**, employers will be required to provide up to **40 hours** of paid sick time.

ACTION STEPS

Employers should review their existing paid time off (PTO) policies and determine whether any changes must be made to comply with the law's requirements. For example, employers may have to expand employee eligibility under existing PTO policies to comply with the law. Employers should also consider whether other company policies, such as attendance policies, must be revised to comply with the law's anti-retaliation provisions.



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If changes are required, employers should prepare to make these updates prior to the applicable compliance deadline. Also, employers should watch for more implementation guidance from [Vermont's Department of Labor](#) on paid sick leave, including final regulations and a model workplace poster.

Covered Employers

All Vermont employers will be required to provide paid sick leave to employees. For existing employers, the effective date depends on the employer's size. After the sick leave law takes effect, new employers will be required to comply after one year of hiring their first employees. Also, employers may require a one-year waiting period before allowing employees to use sick leave.

EMPLOYER SIZE	EFFECTIVE DATE	PERMITTED WAITING PERIOD
Six or more employees	Jan. 1, 2017	Jan. 1, 2017 to Dec. 31, 2017 for existing employees (one year for newly hired employees)
Five or fewer employees	Jan. 1, 2018	Jan. 1, 2018 to Dec. 31, 2018 for existing employees (one year for newly hired employees)
New employers	One year after hiring first employee	One year

Exceptions for PTO Policies

An employer that currently offers any type of paid time off from work (annual leave, combined time off, vacation, personal leave, sick leave or any similar type of leave) that provides at least the same amount of leave and allows employees to use leave for the purposes required by the law, is **not** required to change its paid time off policy or offer additional paid leave.

In addition, an employer that is required by a collective bargaining agreement to provide employees with paid time off that is equal to, or more generous than, the accrual and use requirements provided by the law will be considered in compliance.

Permitted Waiting Periods

An employer may require up to a **one-year waiting period** before newly hired employees may use accrued paid sick time. During the waiting period, an employee must accrue sick time, but may not be permitted to use accrued sick time until the end of the waiting period.

An employer may also require existing employees to satisfy a one-year waiting period when the law becomes effective. The start date of the waiting period must begin on the date that the employer becomes covered under the law (see the table above).

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Eligible Employees

In general, all **employees working at least 18 hours per week** during a year are eligible to accrue and use paid sick leave.

However, there are several exceptions to who is considered an eligible employee under the law. For example, for the purposes of providing paid sick leave, **“employee” does not include:**

- Employees who are under the age of 18;
- Individuals employed by an employer for 20 or fewer weeks in a 12-month period (or in a job scheduled to last 20 weeks or fewer);
- Certain per diem or intermittent employees who only work when available with no expectation of continued employment;
- Individuals employed by the federal government; and
- Certain individuals employed by the state.

Accrual Requirements

Vermont employers with six or more employees will have to allow eligible employees to begin accruing paid sick leave effective Jan. 1, 2017. Employers with five or fewer employees must comply effective Jan. 1, 2018. Employees must accrue at least **one hour of paid sick time for every 52 hours worked**.

The law allows employers to limit the amount of paid sick leave that an employee may accrue in a year, and adopts a phased approach.

- ✓ For the first two years of applicability (Jan. 1, 2017 to Dec. 31, 2018), an employer may limit sick time accruals to a maximum of **24 hours in a 12-month period**.
- ✓ After Dec. 31, 2018, an employer may limit employee sick time accruals to a maximum of **40 hours in a 12-month period**.

In addition, the law allows an employer to calculate an employee’s earned sick time as it accrues each pay period or on a quarterly basis. If the employer calculates earned sick time on a quarterly basis, employees must be allowed to use sick time as it is accrued each quarter.

Use of Paid Sick Time

An eligible employee must be able to use his or her accrued sick time for any of the following reasons:

- The injury or illness of the employee;
- For the employee to obtain professional diagnostic, preventive, routine or therapeutic health care;

Eligible employees must earn a minimum of one hour of paid sick time for every 52 hours worked.

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- For the employee to care for a sick or injured **parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild or foster child**, including helping that family member obtain diagnostic, preventive, routine or therapeutic health care;
- To accompany the employee's **parent, grandparent, spouse or parent-in-law** to an appointment related to his or her long-term care;
- For the employee to arrange for social or legal services, or to obtain medical care or counseling for the employee or for the employee's family member who is a victim of domestic violence, sexual assault or stalking; and
- For the employee to care for a child or other family member because the school or business where that individual normally is during the employee's workday is closed for public health or safety reasons.

Leave Increments

Employers may require employees to use sick time in at least one-hour increments. If an employee's sick time absence is shorter than a full workday, the employer may require the employee to use sick time in the smallest increments that the employer's payroll systems uses to account for other absences.

Notice Requirements

Employees may be required to make reasonable efforts to avoid scheduling routine or preventive health care appointments during regular work hours. An employee can also be required to notify the employer as soon as practicable of the intent to take sick time, including the expected duration of leave.

Vermont's sick time law does not have any provision regarding an employer's ability to require documentation to verify an employee's sick time use. It is possible that this issue may be addressed in regulations or other guidance in the future.

Carryover, Termination and Rehire Requirements

An employee's unused sick time must be carried over to the next year and the employee must continue to earn sick time in accordance with the law. The employee may still be limited to using no more than 24 hours of sick time in a 12-month period (no more than 40 hours effective Jan. 1, 2019).

An employer may decide to pay an employee for unused sick time amounts at the end of the annual period. Any amount of sick time that is paid out would not carryover to the next annual period.

Employers are **not** required to pay out unused sick time upon an employee's separation from employment.

Whether an employee is entitled to any specific sick time rights upon rehire will depend on the nature of the employee's separation from employment:

- **Discharged Employees:** An employee who was discharged after completing his or her waiting period and is rehired by the same employer within 12 months of the discharge must begin to accrue sick time and be able to use sick time **without a waiting period**.

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- **Voluntary Resignation:** An employee who voluntarily resigns employment after he or she completed a waiting period and is rehired by the same employer within 12 months is **not** entitled to accrue and use sick time without a waiting period, unless agreed to by the employer.

Under no circumstance is an employer required to reinstate a former employee's previously accrued, but unused sick time upon rehire.

Payment of Earned Sick Time

When an employee uses sick time, he or she must be paid at a rate that is the greater of either the employee's normal hourly wage rate or Vermont's minimum wage rate.

The law allows an employer and employee to mutually agree for the employee to make up an equal number of work hours that an employee was absent for a permitted sick time reason during the same pay period in lieu of the employee using any accrued sick time. Or, the employee and employer may agree for the employee to trade hours with a co-worker so that the co-worker works during the employee's absence (and the employee will work in place of the co-worker for an equal number of hours) during the same pay period. However, an employer may decide to implement a policy that requires employees to apply accrued sick time for sick time absences.

Employee Protections

An employer is prohibited from retaliating against an employee for using sick time or requiring an employee to find a replacement for sick time absences. Also, an employee's group health insurance benefits must be maintained as normal during sick time leave, with the employee contributing his or her portion of the cost.

Employer Notification Requirements

Employers must post a notice conspicuously in the workplace (to be available from the [Vermont Labor Commissioner](#)) of the law's provisions. Employers will also be required to notify new employees of the sick time law at the time of hiring.

