



City of San Antonio Paid Sick Leave (PSL) Ordinance Frequently Asked Questions

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General Information

1. What is the San Antonio Paid Sick Leave (PSL) Ordinance?

The PSL ordinance is a law that requires employers to provide paid time off work to employees working in San Antonio when they are sick or experiencing other qualifying circumstances.

2. Who is included in the PSL ordinance?

Employers that operate businesses and employees that perform work in the City of San Antonio. See the link below. If the address entered produces a City Council District then the address is within the City limits of San Antonio.

<https://www.bexar.org/2231/Who-represents-me-Search>

3. Who is considered an employee?

Employee means an individual who performs at least eighty (80) hours of work for pay within the City of San Antonio, Texas in a year for an employer including work performed through the services of a

temporary or employment agency. Employee does not mean an individual who is an independent contractor or an unpaid intern

4. Who is considered an employer?

Employer means any person, company, corporation, firm, partnership, labor organization non-profit organization or association that pays an employee to perform work for an employer and exercises control over the employee's wages hours and working conditions.

The term does not include: The United States; a corporation wholly owned by the government of the United States; the states or any state agency; or the City of San Antonio, Texas, or any other political subdivision of the state or other agency that cannot be legally regulated by City ordinance.

5. What does the ordinance do?

The PSL ordinance provides employees with the ability to accrue and use earned paid sick leave if an employee needs to be absent from work because the employee or the employee's family member experiences illness, injury, stalking, domestic abuse, sexual assault or otherwise requires medical or health care, including preventative care and mental healthcare.

6. When does the PSL ordinance take effect?

The ordinance takes effect on August 1st, 2019 for all employers with six or more employees at any time in the preceding 12 months. For employers who have five or fewer employees at any time in the preceding 12 months, the ordinance takes effect August 1st, 2021.

7. Does the PSL ordinance only apply to businesses doing business with the city?

No. The PSL ordinance applies to all employers that pay employees for doing work within the city limits of San Antonio.

8. Which City department is responsible for enforcing the PSL Ordinance?

The Metropolitan Health Department (Metro Health) of the City of San Antonio.

9. Does the PSL ordinance include City of San Antonio employees?

The PSL ordinance does not apply to the City of San Antonio, or other federal or state government entities. However, the City of San Antonio provides leave that meets or exceeds the requirements of the PSL ordinance.

(see: <https://www.sanantonio.gov/EmployeeInformation/Benefits>).

10. Are volunteers covered under this ordinance?

Unpaid volunteers are not covered under the PSL ordinance.

11. Are undocumented employees entitled to PSL?

All employees performing 80 hours of work within the City limits of San Antonio are covered under the PSL ordinance, regardless of immigration status.

12. Are family members who work for a parent or spouse included?

The PSL ordinance excludes sons, daughters, spouses and other family members from being counted towards determining the number of employees for medium/large employers. However, family members should be provided the same number of hours of leave as other employees.

13. Does the PSL ordinance cover the employees of companies located outside the city of San Antonio when those employees actually work within San Antonio?

Yes. When employees work within the city limits of San Antonio, they are covered under the PSL ordinance. This assumes that the employee has met the threshold of eighty (80) hours of work for pay in one (1) year, and otherwise meets the definition of ‘employee’ under the PSL ordinance.

14. A temporary staffing agency supplies employees to a City of San Antonio job assignment. Are these employees covered under the ordinance?

Yes, these employees are covered under the PSL ordinance. The employees are employees of the staffing agency, not the City of San Antonio.

15. When determining employer size, is the total number of employees employed over the past 12 months or the maximum number of employees at any given time over the preceding 12 months considered?

The number of employees at any time in the preceding twelve (12) months, excluding family members, is considered when determining employer size.

16. If an employer offers a Paid Time Off (PTO) plan or other sick or vacation leave, does that satisfy the requirements of the ordinance?

The name of an employer’s paid time off plan or other leave policy does not matter. A PTO plan (or any other type of leave, including sick or vacation) can satisfy the PSL Ordinance requirements *if* the plan: (1) provides employees at least as much leave as required by the ordinance; and (2) allows employees to use the leave for all of the reasons and under the same conditions required by the ordinance. Some existing plans and procedures may need changes to fulfill the minimum thresholds set by the ordinance.

Example:

An employer offers 80 hours of PTO per year. Does it need to begin referring to its PTO as “paid sick leave”?

No. The law does not require explicit reference to any employee programs or leave as “sick and safe time”. The name used by employers does not matter. The amounts and conditions of use for time off work determine whether or not a PTO policy complies with the Paid Sick Leave Ordinance. For example, advance notice requirements for approval of PTO when used for vacation cannot be applied in a case of sudden illness.

17. Are employees that work outside of the City of San Antonio considered in the employer size number?

Employer size is determined based on the number of employees that perform 80 hours of work for an employer within the City of San Antonio in a year.

18. Can a contract with a labor organization representing employees call for a lower than 48 or 64 hour yearly PSL cap?

Yes. A written contract made between an employer and a labor organization representing employees may modify the yearly cap requirement established for employees covered by the contract if the modification is expressly stated in the contract.

19. Does this ordinance apply to those employees with a collective bargaining agreement (Unionized)?

No.

20. If a pattern develops where an employee is taking one day off for sick leave (not 3 consecutive days), can I request verification be provided?

Verification can be requested if an employee has used paid sick leave on 3 consecutive days or more.

21. If I provide 100 hours of PTO (they can use for whatever they want, it doesn't have to be paid sick leave) and they use it all on vacation time rather than for sick leave, but they then become sick. Would I need to provide them with paid sick leave, since they used it as vacation time, rather than sick leave?

No, front loading the 100 hours of PTO would be in compliance, as long as they can use the “PTO” for the purposes required under the ordinance. Since you front loaded the baseline, you would not need to provide any more paid sick leave.

22. If an employee separates from the company, do you have to pay the employee for the accrued sick leave?

The ordinance does not require an employer to pay the employee for paid sick leave at the separation of employment.

23. Will staffing agencies or the company an employee is working for be responsible for PSL?

If the employee is employed by the staffing agency, the staffing agency would be responsible for PSL.

24. How is a family member defined in the PSL ordinance?

The ordinance defines a family member as “an employee’s spouse, child, parent, or any other individual related by blood or whose close association with the employee is the equivalent of a family relationship.”

Basic Requirements

25. What does the PSL ordinance require?

The PSL ordinance provides the following:

- An employer must provide an employee one hour of earned paid sick time for every thirty (30) hours worked for the employer in the City of San Antonio;
- An employer with 1-15 employees (not including family member employees) in the preceding 12 months must provide a minimum of 48 hours of paid sick leave per year for its employees;
- An employer with 16 or more employees (not including family member employees) in the preceding 12 months must provide a minimum of 64 hours of paid sick leave per year for its employees.

26. Can an employee be reprimanded for requesting or using earned leave under PSL?

Retaliation is prohibited. An employer may not transfer, demote, discharge, suspend, or reduce hours, or directly threaten these actions against an employee for requesting or using paid sick leave or for reporting a violation or participating in an administrative proceeding related to the ordinance. Civil penalties for retaliation may be assessed as early as August 1, 2019.

27. Are employers required to provide an annual report to the city?

No.

Accruing and Front Loading Hours

28. How much paid sick leave can employees accrue?

An employer with 1-15 employees (not including family member employees) in the preceding 12 months must provide accrual of 48 hours of PSL per year as a minimum. An employer with 16 or more employees (not including family member employees) in the preceding 12 months must provide accrual of 64 hours of PSL per year as a minimum. However, an employer can provide more hours if they so choose. Up to 48 or 64 hours, consistent with the size of the employer, can be carried over to the following year.

29. Do employees accrue PSL time in hour-unit increments?

Yes. Sick and safe time accrues in increments of whole hours, not fractions of an hour. Upon completion of every 30 hours worked, an employee accrues at least one additional hour of paid sick leave. Employers may exceed this minimum standard by recording time in fractions of an hour if they choose.

30. If an employee carries over hours below the minimum cap, can they still accrue hours the next year?

Example: An employee (of a medium/large employer) rolls over 40 hours from year 1; can they still accrue hours in year 2?

A medium/large employer must provide a minimum of 64 hours of PSL to employees per year. An employee would earn 40 hours of PSL in year 1, and the next year could earn an additional 24 hours for a total of 64 hours of available PSL (rolled over and newly earned). If it chooses, a company has the option to follow a more generous policy that allows greater accrual and carry forward than is set out in the ordinance.

31. When does an employee qualify to begin accruing paid sick leave?

Employees who perform at least 80 hours of work in a year are eligible to accrue paid sick leave under the PSL ordinance.

32. If an employee carries over the baseline amount of hours, can they still accrue hours the next year?

Example: An employee (of a medium/large employer) rolls over 64 hours from year 1; can they still accrue hours in year 2?

If the 64 hour baseline is carried forward to year 2, the employer could elect not to allow additional accrual of hours. However, if the employee does use some sick time in year 2 so the balance of hours falls below 64 hours at some point during year 2, then the employer must allow accrual of PSL hours back up to the 64 hour level.

33. If an employer makes the full number of minimum hours available at the beginning of the year (front loading), is the employer required to allow carry forward of hours, and accrual of PSL hours?

An employer that makes the full number of minimum hours available to employees on day 1 of a year is not required to carry forward hours from the previous year, or provide additional accrual of hours.

34. Is paid sick leave accrued retro-active to Jan 1st, 2019?

Paid sick leave that is accrued under the ordinance begins on August 1, 2019 and onward from that date. Accrual under the PSL ordinance is *not* retroactive to an employee's time worked before August 1, 2019.

35. Must an employer allow accrual when an employee is not working (e.g. vacation or out sick)?

No. The ordinance does not require that PSL accrue when an employee is not working.

36. How is overtime (time over 40 hours a week) counted in the "every 30 hours worked" calculation?

Paid Sick Leave is earned for every 30 hours of time worked, regardless of whether it is overtime.

37. If an employee uses up the 64 hours of PTO before the end of the year can the employee ask for more paid sick leave in that year?

No, the employer is not required to offer more paid sick leave for that year, or to allow more paid sick leave to be taken.

38. If an employee has used 64 hours of paid sick leave before August 1st, 2019, is the employer required to provide more sick leave for 2019?

No, the employer does not need to offer more than the baseline amount of paid sick leave.

39. Is accrual based on pay period hours or YTD cumulative hours?

Cumulative hours.

40. Is it mandatory to use January to December as a calendar year, or can the year be determined by the employee's anniversary date?

The ordinance does not require a calendar year. This can be decided by company policy.

41. If the business is outside of San Antonio but many drivers spend time in San Antonio while making deliveries within San Antonio are they covered by PSL?

While the employee is working in San Antonio, the employee's time must be calculated, and if the employee works for more than 80 hours within San Antonio then that employee would be covered by the ordinance.

42. If an employer front loads hours at the beginning of the year on January 1st, how would they calculate remaining paid sick leave once the ordinance goes into effect on August on 1st, 2019?

If front loaded hours meet the baseline requirement of PSL hours (48, or 64 depending on the size of the employer) then no further leave would need to be provided. If the hours are below those amounts, then the employer can provide paid sick leave for the remainder of the year at the accrual rate of one hour of PSL for every 30 hours worked.

43. For new hires – does the eighty (80) hours worked before accrual starts mean: 1) even after the eighty (80) hours, the employee won't get accrued hours for the first (80) hours worked and 2) new employees can't take any PSL until after they have worked eighty (80) hours?

Employees accrue paid sick leave as soon as they begin work and can start using it after they have worked a total of eighty (80) hours.

44. What is an accrual spreadsheet?

A: It is a tracking spreadsheet that you can use to maintain record of your employees PSL accrual, an example will be available on the website for you to reference.

<https://www.sanantonio.gov/health/paid-sick-leave>

Carry over

45. Does an employee lose accrued and unused PSL hours at the end of the benefit year?

All available earned paid sick time up to the identified hour baseline accrued in a prior year must be carried over to the following year. If the employer makes at least the set minimum of earned paid sick leave hours available to an employee at the beginning of the year, the employer is not required to carry over earned paid sick leave for that year.

46. If an employee separates from their employer and is later re-hired, does the employee lose their previously earned PSL?

It depends. If the employee is re-hired by their employer within six (6) months, the employee may use any accrued and unused PSL that was left over at the time of separation. After six (6) months, an employee is no longer entitled to any previously accrued and unused PSL under the PSL ordinance.

47. If I have carried over the baseline amount and use all my carried over paid sick leave, can I continue to accrue more PSL up to the baseline amount again?

Yes, an employee can continue to accrue more hours, up to the baseline. Although, the employer is not required to allow an employer to use more than the baseline amount of earned paid sick time within a year.

Example: The employee carries over 64 hours from the previous year. In the first 2 months the employ uses all 64 hours. The employee can continue to accrue up to another 64 hours, but the employer is not required to allow the employee to use any more PSL for the remainder of the year.

48. If an employee leaves the company and the company pays the employee for their accrued paid sick leave, if they return does the company need to reload the hours?

If the employee is rehired within six months they would be entitled to any paid sick leave they had at the time of separation.

Use of PSL

49. What qualifies as paid sick leave?

Time off needed to be absent from work because the employee or the employee's family member experiences illness, injury, stalking, domestic abuse, sexual assault or otherwise requires medical or health care, including preventative care and mental healthcare.

50. How soon is PSL available for use?

Earned paid sick leave is available for an employee to use in as soon as it is accrued. However, employees that work by contract with at least a one-year term may be required to wait sixty (60) days before they can use accrued paid sick leave.

51. What happens with my PSL if I am re-hired?

An employee who is rehired by an employer within six (6) months following separation from employment from that employer may use any earned paid sick time available to the employee at the time of the separation.

52. What is considered a timely request to use PSL?

PSL can be requested prior to a shift or start of day, but can also be requested if an illness or other identified circumstance arises on short notice or during a work day.

53. An employer can limit an employee to 8 days of PSL. Does this mean if they use 1 hour of PSL on 8 separate days, they are restricted from using any more hours.

No. The employee may take up to the full amount of PSL hours accrued per year – 64 hours, or 8 days. Limiting use of PSL to as little as 8 hours a year is inconsistent with the purpose of the ordinance.

54. Is the 60-day waiting period considered 60 calendar days or 60 working days?

The 60 day waiting period is considered 60 calendar days.

55. How many distinct days of PSL can employees use annually for a large employer?

An employee can use the equivalent of 8 days of PSL, meaning a total of 64 hours over any amount of days.

56. What if an employee takes three consecutive days but refuses to turn in verification.

The employee would not be meeting the requirements of the ordinance. Company policy would dictate the company's next steps.

57. Can PSL be denied if the amount of time requested exceeds the available hours accrued.

The employer would only need to provide PSL for the amount of PSL hours accrued by the employee.

58. In the case an employee is out for three consecutive days, but has not seen a doctor, in example stalking, domestic abuse etc., what type of verification can the employ require?

An employee could provide a written statement that PSL was used for a reason covered by the ordinance. However, an employer may not adopt verification procedures that would require an employee to explain the nature of the domestic abuse, sexual assault, stalking, illness, injury, health condition or other health need when making a request for PSL.

59. How do employees get paid if they have a shift differential?

The ordinance states the employer shall pay earned paid sick time in an amount equal to what the employee would have earned if the employee had worked the scheduled work time, exclusive of any overtime premium, tips or commissions but no less than the state minimum wage.

60. If an employee uses PSL for three (3) consecutive days, but each day is a different excuse, what documentation is required?

Reasonable verification procedures may be adopted by the employer if an employee requests paid sick leave on three (3) consecutive work days. The documentation requested for verification will be dependent on the employer but must not require the employee to explain the nature of the qualifying circumstance.

Record Keeping and Notice Requirements

61. What records must employers maintain?

An employer shall maintain records establishing the amount of earned paid sick time accrued and used by each employee.

62. What records must employers provide?

On no less than a monthly basis, an employer shall provide electronically or in writing to each employee a statement showing the amount of the employee's available earned paid sick leave.

63. What signage/notices must employers provide?

An employer shall display a sign describing the requirements of the ordinance in a conspicuous place or places where notices to employees are customarily posted. An employer who provides an employee handbook to its employees must include a notice of an employee's rights and remedies in that handbook.

64. Will Metro Health be able to audit businesses financial records?

Metro Health will only review relevant information and records necessary to determine whether a violation of the PSL ordinance has occurred.

65. Is including the ordinance in a handbook sufficient to meet the requirements of “including a notice of the employee’s rights and remedies” in the handbook, if a handbook is distributed?

If the employer provides a handbook to employees, including the ordinance in the handbook would be acceptable.

66. Once signage from the City is available, is including a direction in the employee handbook for them to see the signage publically posted adequate notice for the employee rights and remedies notice requirement?

The employee handbook must include a notice of an employee’s rights and remedies, but this does not require inclusion of the full ordinance. Referencing the location of signage would not be enough.

67. When will signage be available on the City’s website?

The signage will be available by July 15, 2019.

68. If accrued hours are on pay stubs, is the employer meeting the requirements of notifying the employee?

If the employer is providing this information monthly, they would be in compliance with the PSL Ordinance.

69. If an employer frontloads hours, will providing available and used overall leave to the employee be enough or does it need to specifically show time that was designated as paid sick leave?

On at least a monthly basis, an employer needs to provide an electronic or in written statement to each employee showing their amount of available earned paid sick leave.

70. What languages do you have the signage translated in?

The languages that will be available include Spanish, Vietnamese, Arabic, Hindi, Mandarin, Thai, Japanese, Farsi, Turkish, Korean.

Additional languages may be requested by emailing paidsickleave@sanantonio.gov

Enforcement of ordinance

71. How will the ordinance be enforced?

The ordinance will be enforced by the City of San Antonio Metropolitan Health District (Metro Health). Citations for violations will be issued to employers and penalties for violations may be assessed up to \$500 per violation by Municipal Court.

Metro Health may offer an employer 10 business days to voluntarily comply with the ordinance before issuing a citation for violation.

72. When will civil penalties be enforced?

Other than retaliation violations, penalties will not be assessed for violations of the ordinance until April 1, 2020. Between August 1, 2019 and April 1, 2020 Metro Health will focus on education and technical assistance to help employers comply with the PSL ordinance.

Starting on April 1, 2020, citations for violations of the PSL ordinance as well as penalties for may be assessed up to \$500 per violation. Metro Health may offer an employer 10 business days to voluntarily comply with the ordinance before collecting a civil penalty.

Example 1: Five employees make a complaint about a single violation of the ordinance. One possible violation has occurred.

Example 2: Five employees make a complaint about separate violations of the ordinance. Five possible violations have occurred.

73. As a small business, can PSL be phased-in based on employee tenure?

No. All eligible employees start accruing paid sick leave beginning on August 1, 2019 at the rate of one (1) hour for every 30 hours worked regardless of how long the employee has worked for a business.

74. How can a concerned person file a complaint?

An employee or a concerned person may report a suspected violation to Metro Health by calling 311, or by submitting a complaint to paidsickleave@sanantonio.gov. Metro Health will accept and review all reports of suspected violations of the PSL ordinance, will follow up on all complaints, will gather additional details from the employee and will conduct an investigation.

75. Is there a chance the PSL ordinance will be repealed after August 1st, 2019?

The PSL ordinance will go into effect August 1st, 2019.

Contact

76. Is there a number employees can call with questions or for more information?

Yes, employees and employers who have questions about PSL can call 311 or they can submit their question via email to paidsickleave@sanantonio.gov. Responses to questions will be posted to the FAQ on the Metro Health website, or if necessary a Metro Health employee will respond to the question by phone.