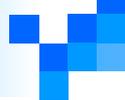

Overview of Portland's Sick Leave Ordinance

City of Eugene Sick Leave Task Force
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Presented by
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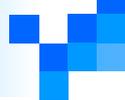
Stated Purpose of Portland's Ordinance

- *“To promote a sustainable, healthy and productive workforce by establishing minimum standards for Employers to provide sick leave and to ensure that all persons working in the City will have the right to earn and use paid sick time.”*
- *“Allowing employees to earn and take sick time will maintain a healthy workforce and promote a vibrant, productive and resilient City. It is the City’s aspiration that all persons working in the City will be provided the right to earn and use paid sick time.”*



The Portland ordinance provides two benefits to employees:

- Entitles any worker providing services in the city to earn up to 40 hours of sick leave each year
- Protects employees against job loss or other retaliation for having used sick leave



Who is Covered?

- Applies to all private employers (union and non-union), including staffing agencies and non-profits
- Includes employers who are outside city limits, if their employees provide services within city limits
- Applies to all employees, including temporary and part-time employees
 - That means your benefit eligibility criteria won't apply
- Does not apply to independent contractors, interns and owners



Paid or Unpaid?

- For employers with five or fewer employees:
 - The leave is unpaid.
- For employers with six or more employees:
 - The leave is paid.

When Can Sick Leave Be Used?

- Diagnosis, care and treatment of the employee or a family member
 - Includes preventive medical and dental care
- Domestic violence, harassment, sexual assault and stalking purposes
- Work, school or childcare closure due to a public health emergency
- If the employee or a family member is excluded from the workplace or the community by law for health reasons



Definition of “Family Member”

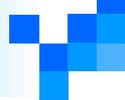
The employee’s:

- Spouse or same-sex domestic partner
- Biological, adoptive or foster parent
- Biological, adoptive or foster child
- Grandparent or grandchild
- Parent-in-law
- A person with whom the employee was or is in a relationship of *in loco parentis*



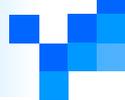
How Does Leave Accrue?

- Employees accrue one hour of leave for every 30 hours worked in the city.
 - Hours worked outside the city do not count.
- Overtime hours count as hours worked.
- Time spent on paid or unpaid leave does not count as hours worked.



How Much Leave Accrues?

- The ordinance requires that a maximum of 40 hours be awarded each year.
 - The employer can award more.
- Employees can carry over a maximum of 40 hours from year to year.
- Use in any given year is capped at 40 hours.
- No required pay-out on separation.



When Can Employees Start Using Earned Leave?

- Employee cannot use sick leave until the employee has worked 240 hours (six weeks at 40 hours per week) in a year within the city.
- In no event can an employee use earned sick leave within first 90 days of employment.
- Employees can only use leave during times they were scheduled to work in the city.
- Employees **MUST** use sick leave if they are absent for a qualifying reason.



What Pay Rate Applies?

- Employee must be paid at the regular rate of pay applicable when the leave is used.
- Does not include bonuses or commissions.

Notice and Other Issues

- Employer can require “reasonable notice.”
- Verification is limited:
 - No proof required for single day absences;
 - Verification only after three consecutive absences;
 - Employer can require doctor’s note if abuse is suspected.
- A PTO policy that is as generous as the sick leave ordinance will be sufficient.



Enforcement

- Portland has contracted with BOLI to enforce Code violations.
- Aggrieved employees are entitled to unpaid wages and penalties of up to three times' the value of the refused sick time, plus all discrimination-based remedies.



The Good, the Bad and the Ugly of Portland's Sick Leave Ordinance



The Good

- The ordinance expands the legal protections for absences based on illness to all employees.
- The ordinance provides a paid benefit that otherwise might not be available.
- The ordinance allows employers to avoid onerous timekeeping requirements by permitting the use of PTO policies that are as generous as the ordinance.



The Bad

- Increased labor costs for employers
- Administrative burden of tracking leave/compliance
- Diminished ability to enforce attendance policies
- Diminished ability to curb abuse
- Increased risk of retaliation claims



The Ugly

- The policy applies to tardies, providing employees with 40 job-protected excuses for being late or leaving early each year.
- The verification requirements are difficult to administer (apply only after three consecutive work days or a pattern of abuse).



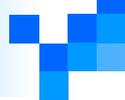
What's Missing from the Discussion?

- An Assessment of Need
- An Awareness of What Already Exists



Existing Job Protections

- All Oregon employers with six or more employees are already required to provide employees with a reasonable amount of leave for domestic violence-related purposes.
- All Oregon employers with 25 or more employees are already required to provide employees with up to 12 weeks of sick child leave and serious health condition leave.



Existing Paid Leave

- Any Oregon employee who works for an employer with six or more employees is already entitled to use any available paid leave for domestic violence-related leave.
- Any Oregon employee who works for an employer with 25 or more employees is already entitled to use any available paid leave for sick child or serious health condition leave.