

UNDERSTANDING ARIZONA'S **PAID SICK TIME LAW**

THE FAIR WAGES AND HEALTHY FAMILIES ACT





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THE BASICS

- »» What is this law about?
- »» What does it require?
- »» Why do I have to do this?



THE BASICS

- ▶▶ Prop 206 approved on Nov. 2016 ballot
 - Established new minimum wage:
 - \$10.00/hr for 2017
 - \$10.50/hr for 2018
 - \$11.00/hr for 2019
 - \$12.00/hr for 2020, then by cost of living
 - Entitles all AZ employees to earn paid sick time beginning July 1, 2017
- ▶▶ Imposes strict tracking and recordkeeping requirements
- ▶▶ Prohibits employers from discrimination or retaliation for exercising rights under the Act



REALLY? DO I HAVE TO?



- » Yes, except for employees who are your children, siblings, or babysitters
- » No exemption for small employers (Unlike min wage exempts <\$500K gross rev)
- » Back wages & penalties
 - \$250 for first violation
 - \$1000 for each subsequent or willful violation
 - Treble unpaid wages
 - \$150/day of retaliation until judgment entered
- » Failure to keep records is a presumed violation
- » Can file complaint with DOL for up to 1 year
- » Can sue directly for up to 2 years

PRESUMPTION OF GUILT

- ▶▶ The Act prohibits an employer from discriminating or retaliating against an employee or other person for asserting any right under the Act
- ▶▶ Any adverse action (termination, demotion, pay cut, discipline) against an employee within **90 days** of the employee asserting a right under the Act, is PRESUMED to be retaliation
- ▶▶ This presumption can only be overcome if the employer shows by clear and convincing evidence that the action taken against the employee was for a permissible reason

HOW MUCH PAID SICK LEAVE DO WE GIVE?

- ▶▶ **Less than 15 employees:** 24 hours per year
 - ▶▶ **15 or more employees:** 40 hours per year
 - Count number of employees on payroll for any part of a day in 20 calendar weeks; weeks do not have to be consecutive
 - Includes temporary and part-time and highly compensated employees
 - ▶▶ **Accrued** as 1 hour per 30 hours worked, beginning on 7/1, or if hired after 7/1, upon hire, for use at 90 days
- OR
- ▶▶ **Granted** up front as a lump sum on 7/1, or at 90 days, and then annually

CHOICES FOR COMPLIANCE



►► Accrual

- 1 hour/30 worked, up to 40 accrued or used
- Roll over required, can limit usage
- Requires tracking of accrual, usage and availability
- Forfeit at termination

►► Granting

- Lump sum deposit
- No roll over needed if pay out unused PST at year end and refill bank at start of year
PRO TIP: But can roll over and limit usage
- Must track usage and availability
- Can prorate (expected to accrue)
- Forfeit at termination

EXISTING PTO POLICIES

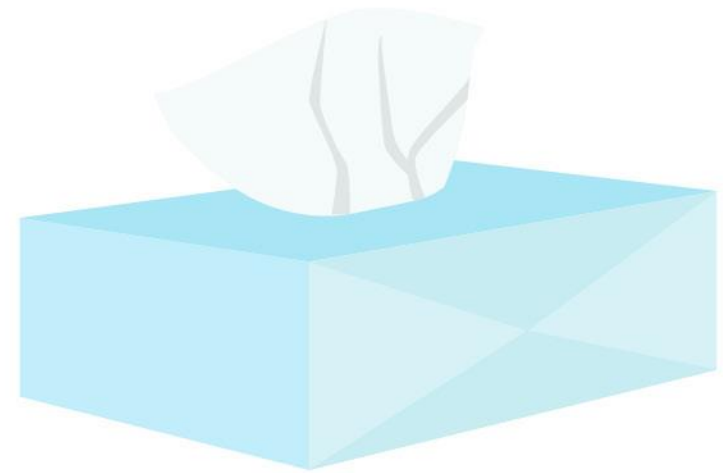
►► **PRO TIP:** Don't infect your PTO with PST liability!



HOW CAN PAID SICK LEAVE BE USED?

► Covered family members

- Spouse, legally registered domestic partner
- Parent (bio/foster/step/in loco/in law)
- Grandparent, grandchild, sibling
(bio, adopted/foster/step/in law)
- Child of any age
(bio/adopted/foster/step/in loco/in law)
- Any other person related by blood/affinity
with equivalent to a familial relationship



HOW CAN PAID SICK LEAVE BE USED?

► Covered usage

- Medical care or mental or physical illness, injury, or health condition (care, prevention, or treatment) for self or family member
- A closure of business or child's school due to public health emergency
- Absence due to domestic violence, sexual violence, abuse, or stalking of self or family member



PAYING OUT SICK TIME

- ▶▶ Regular hourly rate
- ▶▶ Exempt salary presumed to work 40 hours/week, unless workweek is shorter
- ▶▶ Commissioned/variable rate recommendation:
 - Actual wages the employee would have been paid, if known, for the period of time in which sick time is used
 - Average hourly rate of all wages paid during the previous 90 days



REQUESTING PAID SICK TIME

- ▶ Can request orally, in writing, or electronically
- ▶ Can require good faith effort to provide advance notice of absence when foreseeable, and to take in a way that does not unduly disrupt operations (But we don't recommend denying a request!)
- ▶ Must have written policy about how to give notice of unforeseeable absence
- ▶ Can be used in 1 hour increments, or smaller if used for other absences

REQUESTING PAID SICK TIME

- ▶▶ Cannot require a doctor's note or other reasonable documentation unless 3 or more consecutive days are used
- ▶▶ Cannot require specific details as to reason for absence
- ▶▶ Cannot require employee to find a replacement

IMPORTANT RECORDKEEPING

- ▶▶ Post the earned paid sick time notice in your workplace
- ▶▶ Provide employees with legal business name, address, and phone number in writing upon hire
- ▶▶ Provide employees with a notice of their rights under the Act by 7/1 and upon hire
- ▶▶ Maintain payroll records for 4 years
- ▶▶ Include the following on the employee's paystub:
 - Amount of PST available
 - Amount of PST taken
 - Amount of PST paid



ADDITIONAL RESOURCES

- ▶▶ Sample policy
- ▶▶ AZ Fair Wages and Healthy Families Act Employee Notice
- ▶▶ FAQ from the Industrial Commission of Arizona:
www.azica.gov/frequently-asked-questions-about-wage-and-earned-paid-sick-time-laws
- ▶▶ Copy of this presentation





QUESTIONS?

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THANK YOU!

CEDR IS HERE TO HELP
WHEN YOU NEED IT!

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