



COMPLIANCE BULLETIN

HIGHLIGHTS

- Employees who work at least 80 hours in a calendar year for an Austin City employer are eligible for earned sick time.
- Eligible employees accrue one hour of earned sick time for every 30 hours worked in Austin.
- Employers may cap employees' yearly earned sick time accruals, based on the employer's size.

IMPORTANT DATES

Oct. 1, 2018

Earned sick time is effective for employers with six or more employees.

Oct. 1, 2020

Earned sick time is effective for employers with five or fewer employees.

Provided By:

Compass Consulting Group

City of Austin Paid Sick Leave Law

OVERVIEW

On Feb. 16, 2018, the Austin City Council passed an [ordinance](#) that requires all private employers in Austin to provide paid earned sick time to employees. An employer must provide one hour of earned sick time for every 30 hours that an employee works in Austin. Employees may take paid leave for their own health and safety needs or for a family member's health and safety needs. Employers may restrict employees' use of earned sick time to no more than eight days per year.

Employers must comply with the new earned sick time requirements, **effective Oct. 1, 2018**. However, employers with five or fewer employees must comply with earned sick time requirements, effective **Oct. 1, 2020**.

ACTION STEPS

City of Austin employers should review their leave and attendance policies and determine whether any changes must be made in order to comply with the new earned sick leave requirements. Also, employers should watch for implementing regulations and prepare to provide the required employee notices, as well as comply with the ordinance's recordkeeping requirements.

COMPLIANCE BULLETIN

Covered Employers

All private employers employing any employees in Austin must comply with paid earned sick time requirements. There is no small employer exception under the ordinance.

An employer may provide paid leave benefits that exceed the requirements of the ordinance. The ordinance does not require an employer who makes paid time off available to an employee under conditions that meet the accrual, purpose and usage requirements of the ordinance to provide additional earned sick time.

Employers that already provide paid leave benefits that meet the ordinance's accrual, purpose and usage requirements do not need to provide additional earned sick time.

Covered Employees

To be eligible for earned sick time, employees must work in Austin for an employer (including work performed through the services of a temporary or employment agency) for pay for at least **80 hours in a calendar year**. Independent contractors and unpaid interns are not covered by the ordinance.

Accrual of Earned Sick Time

An employer must grant an employee **one hour** of earned sick time for every **30 hours** worked in Austin. Earned sick time accrues only in hour-unit increments.

Employers are not required to allow employees to accrue more than the **yearly cap** of earned sick time. The yearly cap that employers may place on earned sick time accruals depends on the number of employees that the employer employs, as follows:

- ✓ For **small employers** (no more than 15 employees at any time in the preceding 12 months, excluding family members), the yearly cap is **48 hours** of earned sick time.
- ✓ For **medium or large employers** (more than 15 employees at any time in the preceding 12 months, excluding family members), the yearly cap is **64 hours** of earned sick time.

Employees begin accruing earned sick time upon the commencement of employment or the effective date of the ordinance (based on employer size), **whichever is later**.

Employers must permit employees to **carry over all available earned sick time up to the yearly cap** to the following year. However, an employer who makes at least the yearly cap of earned sick time available to an employee at the beginning of a year is not required to carry over earned sick time for that year.

Use of Earned Sick Time

Eligible employees may use accrued earned sick time for any of the following purposes:

COMPLIANCE BULLETIN



- 1 For the employee's physical or mental illness or injury, preventive medical or health care, or health condition;
- 2 For the employee's need to care for a family member's physical or mental illness, preventive medical or health care, injury or health condition; or
- 3 In order for the employee to seek medical attention, seek relocation, obtain services of a victim services organization, or to participate in legal or court ordered action related to an incident of victimization from domestic abuse, sexual assault or stalking involving the employee or the employee's family member.

Employees must generally be able to use earned sick time as it is accrued. However, if an employer establishes that the employee's term of employment is at least one year, the employer may restrict an employee from using earned sick time during the employee's **first 60 days of employment**.

Employers are permitted to restrict employees' use of earned sick time to **no more than eight days** in a calendar year. Also, an employer may not require an employee to find a replacement to cover the hours of earned sick time as a condition of using earned sick time. An employer may adopt reasonable verification procedures to establish that an employee's request for earned sick time for more than three consecutive workdays is for a permitted purpose.

Under the ordinance, a "family member" is defined to include the 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.

Payment of Earned Sick Time

Employers must pay earned 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](#).

Employee Notice Requirements

If the employee has available earned sick time and makes a timely request to use earned sick time before his or her scheduled work time, an employer must provide earned sick time for the absence. The ordinance does not define what is considered to be a timely request. An employer may not prevent an employee from using earned sick time for an unforeseeable qualified absence.

COMPLIANCE BULLETIN

Employee Protections

An employer may not transfer, demote, discharge, suspend, reduce hours, or directly threaten these actions against an employee for requesting or using earned sick time, or for reporting a violation or participating in an administrative proceeding under the paid earned sick time law.

Employer Notice Requirements

Employers must **display a sign** describing the requirements of the earned sick time law in all appropriate languages in a conspicuous place (or places) where employee notices are customarily posted. The City of Austin will provide a poster to meet this requirement on its [website](#); employers are **not** required to post this sign until the City of Austin makes its poster available.

In addition, on **at least a monthly basis**, employers must provide each employee with a statement (electronically or in writing) showing the amount of the employee's available earned sick time.

An employer that provides an employee handbook to its employees must include a description of the earned sick time requirements in the handbook.

Employer Recordkeeping

Employers must maintain records establishing the amount of earned sick time accrued and used by each covered employee for the period required for maintenance of records under [federal wage and hour regulations](#).

Employer Substitute Policies

An employer may provide paid leave benefits that exceed the requirements of the paid earned sick time law. Employers that make paid time off available to employees under conditions that meet the accrual, purpose and usage requirements of the paid earned sick time law are not required to provide additional paid sick time.

The ordinance does not prohibit an employer from:

- ✓ Providing earned sick time to an employee prior to the employee's accrual;
- ✓ Permitting an employee to donate available earned sick time to another employee;
- ✓ Permitting an employee to exchange hours or trade shifts voluntarily with another employee; or
- ✓ Establishing incentives for employees to exchange hours or trade shifts.

Additionally, the new law does not require an employer to provide additional earned sick time to an employee if the employee uses paid time off that meets the requirements of the ordinance for a purpose that is not covered by the paid earned sick time law.