



DOES

Department of
EMPLOYMENT SERVICES



DEPARTMENT OF EMPLOYMENT SERVICES

**D.C. COVID-19 SUPPORT EMERGENCY AMENDMENT ACT
&
ACCRUED SICK AND SAFE LEAVE ACT OF 2008
D.C. CODE § 32-531.01 ET SEQ.**

PUBLIC EDUCATION CAMPAIGN

**Department of Employment Services
Office of Wage-Hour
Labor Standards Bureau**



**District of Columbia
Muriel Bowser, Mayor**

**Department of Employment Services
Dr. Unique Morris-Hughes, Director**

AGENDA

- I. Leave Policies under D.C. Covid-19 Support
Emergency Act
- II. Purpose of the D.C. Sick Leave Act
- III. Employer Requirements
- IV. Employee Requirements
- V. Enhanced Penalties for Violators Under the Wage
Theft Prevention Amendment Act of 2014

CORONAVIRUS SUPPORT EMERGENCY AMENDMENT ACT

- Provisions are in effect from April 2020 until the D.C. public health emergency ends. It was recently extended to April 1, 2021
- D.C. Covid-19 emergency amendment requires employers to give employees up to 80 hours of emergency sick leave due to COVID-19 related issues, as outlined by the Department of Health and Human Services
- Employers shall provide part-time employees paid leave for the usual number of hours the employee works in a 2-week period.
- Required by all employers with 50-499 employees that are not healthcare providers

PURPOSE OF LEAVE

To enable full-time and part-time employees to have additional paid sick leave for the following reasons related to COVID-19:

1. To follow a Federal, State or local quarantine or isolation order	4. To care for an individual subject to a quarantine order
2. To take precautions advised by a healthcare provider to self-quarantine	5. To care for a child whose school or place of care is closed due to COVID-19 related reasons
3. If the employee is experiencing COVID-19 symptoms and is awaiting a diagnosis	6. If the employee is experiencing any other similar condition specified by the U.S. Department of Health and Human Services

WHO IS EXEMPT?



HEALTH CARE PROVIDER

Beginning April 10, 2020, and for the duration of the COVID-19 emergency, **an employer with between 50 and 499 employees, that is not a health care provider**, shall provide paid leave to an employee pursuant to this section for an absence from work due to covered reasons.

- Doctor's office
- Hospital
- Health care center
- Clinic
- Post-secondary educational institution offering health care instruction
- Medical school,
- Local health department or agency,
- Nursing facility,
- Retirement facility,
- Nursing home,
- Home health care provider,
- Any facility that performs laboratory or medical testing, pharmacy, or any similar institution, employer, or entity. The term "health care provider" includes any permanent or temporary institution, facility, location, or site where medical services are provided that are similar to such institutions.

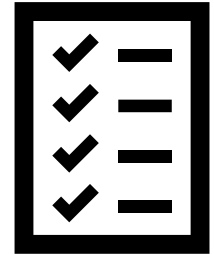


COVID-19 PAID LEAVE AUDITS

- The Office of Wage-Hour is initiating audits to ensure businesses are compliant with all applicable laws
- Audits will be initiated while the public health emergency declaration is in place

AUDIT DOCUMENTS REQUESTED

- Names, addresses, phone and titles of all workers employed for the audit period as stated in the last slide
- A copy of the company policy pertaining to all paid time off benefits
- A copy of the document employees use to request paid leave or time off from work



ACCRUED SICK AND SAFE LEAVE ACT OF 2008

PURPOSE OF THE ACTS

- To enable full-time and part-time employees who spend 50% or more of their time working in the District of Columbia to receive paid leave for absences resulting from:
 - **A medical condition or to care for ill family members**
 - **To receive medical care for themselves or their family members**
 - **Issues pertaining to domestic violence or sexual abuse**

See DC Code § 31-531.02 for additional details

HOW DOES PAID LEAVE ACCRUE?

- Employees begin accruing leave on the first day of their employment. Sick leave is accrued based on the employer's established pay period. The number of hours accrued is based on the size of the employer's workforce.

EMPLOYER REQUIREMENTS

If an employer has...	Employees accrue...	Not to exceed...
100 or more employees	1 hour per 37 hours worked	7 days per calendar year
25 to 99 employees	1 hour per 43 hours worked	5 days per calendar year
1 to 24 employees	1 hour per 87 hours worked	3 days per calendar year
Tipped restaurant employees*	1 hour per 43 hours worked	5 days per calendar year

****An employee means any individual employed by an employer***

EXEMPT EMPLOYEES

- Employees who are exempt from overtime payment shall not accrue leave for hours worked beyond a 40-hour work week.
- Exempt employees are classified under one of the following categories:
 - Executive
 - Administrative
 - Professional
 - Outside Sales

EMPLOYEES NOT COVERED BY THESE ACTS

- Independent contractors
- Full-time Students (defined by an accredited institution of higher education and employed by that institution for less than 25 hours per week)
- Healthcare workers who choose to participate in a premium pay program
- Volunteers who work in non-profit organizations, charitable, religious or educational establishments
- Appointed or elected lay members engaged in religious functions in any religious organization
- Employees in the construction or building industry covered by a bona fide collective bargaining agreement
- Casual babysitters

DEFINITION OF “FAMILY MEMBERS”

- A spouse or domestic partner
- The parents of either the employee or the spouse
- Children, including grandchildren and foster children
- Brothers and sisters of either the employee or the spouse
- A residing child for whom the employee has parental responsibility
- A person who has co-habitated with the employee for a minimum of 12 months

HOW DOES AN EMPLOYER DETERMINE THE NUMBER OF EMPLOYEES EMPLOYED IN THE DISTRICT OF COLUMBIA?

The number of employees of an employer shall be determined by the average monthly number of full-time equivalent employees for the prior calendar year. The average monthly number shall be calculated by adding the total monthly full-time equivalent employees for each month and dividing by 12.

See D.C. Code § 32-531.02(4)

HOW DOES AN EMPLOYER DOCUMENT THE USE OF PAID LEAVE UNDER THE ACTS?

An employer is required to maintain accurate time and payroll records that reflect the use of paid leave for no less than three years.

See DC Code § 32-531.10b

EMPLOYERS DO NOT HAVE TO CHANGE THEIR CURRENT LEAVE POLICIES IF THE POLICIES ALLOW EMPLOYEES TO:

(1) Accrue and access paid leave at the same rate or greater than the hours of paid leave provided in DC Code § 32-531.02(a)(1), (2) and (3); and

(2) Use the paid leave for the same purposes as those set forth in DC Code § 32-531.02(b), including unscheduled leave.

See D.C. Code § 32-531.05

HOW DOES AN EMPLOYEE INFORM AN EMPLOYER OF THE NEED TO USE PAID LEAVE?

- If the paid leave is foreseeable, the request shall be provided in writing to the employer at least **10 days or as early as possible**, in advance of use of paid leave.
- If the paid leave is unforeseeable, an oral request for paid leave shall be provided prior to the start of the work shift for which the paid leave is requested.
- In the case of an emergency, the employer shall be notified **prior** to the start of the next work shift or **within 24 hours** of the onset of the emergency, whichever occurs sooner.
- An employer may require that paid leave for **3** or more consecutive days be supported by reasonable certification supplied by an employee.

See D.C. Code § 32-531.03

EMPLOYER CERTIFICATION

An employer may require “reasonable” certification for an employee’s absence of **3 or more days** which can comprise of:

- A signed document from a health care provider, as defined in DC Code § 32-501(5), affirming the illness of the employee;
- A police report indicating that the employee was a victim of sexual abuse, stalking or domestic violence;
- A court order; or
- A signed statement from a domestic violence advocate/counselor verifying that the employee is involved in litigation related to sexual abuse, stalking or domestic violence.

See D.C. Code § 32-531.04

WHEN DOES AN EMPLOYEE HAVE TO TURN IN CERTIFICATION REQUIRED BY THE EMPLOYER?

- If certification is required by an employer, the employee shall provide a copy of the certification to the employer upon the employee's return to work.

See D.C. Code § 32-531.04

LEAVE BALANCE

WHAT HAPPENS TO AN EMPLOYEE'S PAID LEAVE BALANCE WHEN EMPLOYMENT ENDS?

- Unpaid leave is not required to be paid when an employee resigns or is terminated or laid off.
- When there is a separation from employment and the employee is rehired within one year of separation by the same employer, previously accrued unused paid leave shall be reinstated.
- If there is a separation of more than one year, an employer shall not be required to reinstate accrued paid leave and the rehired employee shall be considered to have newly commenced employment.

See D.C. Code § 32-531.02(c)(3)

WHAT HAPPENS TO AN EMPLOYEE'S UNUSED ACCRUED LEAVE BALANCE AT THE END OF THE COMPANY'S CALENDAR YEAR?

- An employee's unused paid leave accrued during a 12-month period shall carry over annually.
- Employers must carry over unused leave accrued, during a 12-month period, annually.

CHANGES TO SICK LEAVE LAWS DUE TO WAGE THEFT PREVENTION AMENDMENT ACT

- When the employer is a subcontractor alleged to have failed to pay an employee any wages earned, the subcontractor and the general contractor shall be **jointly** and **severally liable** to the subcontractor's employees for violations of the applicable DC wage laws.
- Increased the penalties, when employers fail to comply with the applicable DC wage laws.

See D.C. Code § 32-1303(5)

PROHIBITED ACTS

- An employer taking an adverse action against an employee within 90 days of any of the actions set forth in the law shall raise a rebuttable presumption that the employer has violated the law.
- It shall be unlawful for an employer's absence control policy to count paid leave taken under this act as an absence that may lead to, or result in, discipline, discharge, demotion, suspension, or other adverse action

See D.C. Code §32-531.08

PROHIBITED ACTS

It shall be unlawful for any employer to discharge, threaten, penalize, or in any other manner discriminate or retaliate against any employee or person because that employee or person has

- Complained to their employer
- Filed a complaint with DOES or a civil complaint alleging a violation
- Cooperates in an investigation with DOES
- Uses paid leave to which they are entitled



ADDITIONAL INFORMATION

For the complete text of the Accrued Sick and Safe Leave Act of 2008, the Earned Sick and Safe Leave Amendment Act of 2013, or the Families First Coronavirus Response Act, please visit:

www.does.dc.gov

For questions or concerns, please contact the
DOES Office of Wage-Hour at **202-671-1880**.

or

Email: OWH.ASK@dc.gov

Office hours:

8:30 a.m. to 4:00 p.m. – Monday through Thursday

10:30 a.m. to 4:00 p.m. – Friday