

San Antonio Joins Austin and Adopts Paid Sick Leave Law but Stay Tuned

Earlier this year, Chamberlain Hrdlicka issued a bulletin advising Austin-based employers about a new paid sick leave ordinance Austin's City Council approved. It was the first of its kind to be enacted in Texas and set to take effect for most employers on October 1, 2018. Although a district court in Travis County denied efforts by several business groups and the State of Texas to obtain emergency relief and block the ordinance, the Austin court of appeals recently granted their request to enjoin the ordinance from taking effect while they appeal the denial of their request for an injunction.

Now, after workers' rights advocates in Dallas fell just shy of amassing the requisite number of signatures to place a paid sick leave initiative on the ballot for Dallas voters in November, San Antonio is following Austin's progressive footsteps. This month, San Antonio's City Council bypassed a public vote in November and approved the adoption of a similar earned paid sick time law for individuals who perform at least eighty hours of compensable work in San Antonio in a year. The purpose of the local law is to provide employees the ability to accrue and use earned paid time when they need to be absent from work for a variety of reasons, including when the employee or the employee's family member is ill, injured, or the victim of stalking, domestic abuse, or sexual assault.

Except for employers with less than five employees, starting August 1, 2019, employers must provide employees one hour of earned paid sick time for every thirty hours of work in San Antonio. San Antonio's law requires employers with more than fifteen employees to allow their employees to accrue at least sixty-four hours each year. Smaller employers with fifteen or fewer employees must allow their employees to accrue at least forty-eight hours of earned sick time each year. Employees can carry over earned paid sick time from year-to-year. Special rules apply to certain rehires and successor companies who acquire businesses and hire some of their employees.

Moreover, employers are required to give notice to employees in a variety of ways. At least monthly, employers must notify each employee of the amount of paid sick time the employee has earned. If employers

maintain an employee handbook, employers must include the employees' rights and remedies under the municipal law in the handbook. And when the Director of the San Antonio Metropolitan Health District creates signage contemplated by the law, employers must display the sign or poster where other notices are customarily posted. The San Antonio Metropolitan Health District is charged with enforcing the new law and can impose civil penalties up to five hundred dollars for each section or subsection an employer violates.

Commentators are skeptical, however, about the viability of San Antonio's new law. Before San Antonio's City Council passed the ordinance, the Texas Attorney General's Office wrote to San Antonio's Mayor and City Council members to encourage them to reject the proposed ordinance because, according to the Attorney General, Texas law preempts municipal paid sick leave laws. After Austin's City Council passed its ordinance, state legislators promised to introduce preemption legislation when the regular legislative session begins in January 2019 to ban municipalities from adopting paid sick leave laws. State Senator Donna Campbell, who represents part of Bexar and Travis Counties, condemned San Antonio's City Council's passage of the ordinance and promised she stands "ready to introduce legislation that protects the rights of business owners and the best interests of the Texas economy." So stay tuned.

No matter where your business operates, but especially if your company works in more than one state or city, you should be sure your leave policies and practices comply with the various paid leave laws that have proliferated in the last fifteen years.



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