

## **Pittsburgh Paid Sick Days Act**

Pittsburgh has joined a growing number of cities, counties and states that have recognized the connection between paid sick time and public health generally, as well as employee productivity. For a summary of all the localities that have adopted sick leave legislation, see <http://www.abetterbalance.org/web/images/stories/Documents/sickdays/factsheet/PSDchart.pdf> The public policy justification for these ordinances is compelling and well-established by academics, health professionals and advocates.

Most workers will at some time during each year need limited time off from work to take care of their own health needs or the health needs of family members. Unfortunately, many workers who do have paid sick time are disciplined for using it or cannot use that time to care for sick children<sup>i</sup>. Additionally, low income workers are significantly less likely to have paid sick time than other members of the workforce<sup>ii</sup>. Parents who do not have paid sick time are more than twice as likely as parents with paid sick days to send a sick child to school or daycare, and five times as likely to take their child or a family member to a hospital emergency room because they were unable to take time off from work<sup>iii</sup>.

Paid sick time also reduces contagion. Workers in jobs with high levels of public contact, such as restaurant workers and child care workers, are the least likely to have paid sick time<sup>iv</sup>. As a result, these workers have to go to work when ill, thereby increasing the risk of passing illnesses on to co-workers and customers while jeopardizing their own health<sup>v</sup>. Overall, people without paid sick days are 1.5 times more likely than people with paid sick days to go to work with a contagious illness like the flu.<sup>vi</sup> A peer-reviewed epidemiological study found that nearly one in five food service workers have come to work vomiting or with diarrhea in the past year, creating dangerous health conditions<sup>vii</sup>. The largest national survey of U.S. restaurant workers found that two-thirds of restaurant wait staff and cooks have come to work sick<sup>viii</sup>.

In the event of a disease outbreak that presents a threat to public health -- for example, the H1N1 outbreak of 2009 -- government officials request that sick workers stay home and keep sick children home from school or child care to prevent the spread of illness, and to safeguard workplace productivity<sup>ix</sup>. However, because many workers lack paid sick time, they may be unable to comply. During the height of the H1N1 pandemic, workers with lower rates of access to paid sick days were more likely than those with higher rates of access to paid sick days to go to work sick and, as a result, the pandemic lasted longer in their workplaces as the virus spread from co-worker to co-worker<sup>x</sup>. A new study estimates that lack of paid sick time was responsible for five million cases of influenza-like illness during the pandemic<sup>xi</sup>.

In short, providing paid sick time ensures a healthier and more productive workforce in Pittsburgh. It will (i) reduce recovery time from illness for workers and their family members; (ii) promote the use of regular medical providers rather than hospital emergency departments; (iii) reduce the likelihood of people spreading illness to other employees and the public; (iv) reduce health care expenditures and improve family health by promoting access to primary and preventive care; (v) decrease the likelihood that a worker will put off needed care; (vi) increase the rates of preventive care among workers and their children; (vii) allow parents to provide personal care for their sick children; (viii) provide economic security and stability for workers and their families; and (ix) protect residents and all workers from losing their jobs or facing workplace discipline.

With this public policy background, and noting that 40% of private sector employees and 77% of service workers such as food service and healthcare workers in Pittsburgh lack access to paid sick time, the City enacted the Paid Sick Day Act ("PSDA") in August of 2015, with the

purpose of “enhance[ing] the public health by ensuring that employees across the City are able to earn Paid Sick Time” (PSDA, § 626.01).

The PSDA requires employers with at least 15 employees to provide paid sick time to its employees at the rate of 1 hour for every 35 hours worked, up to 40 hours in a calendar year (§626.03(b)). From the date of enactment until the completion of 1 year, employers with fewer than 15 employees shall provide 1 hour of unpaid sick time for every 35 hours worked, up to 24 hours in a calendar year; after 1 year after enactment, employers shall provide up to 24 hours of paid sick time in a calendar year (§ 626.03(c)). Sick leave may be carried over to the next year except if an employer that employs at least 15 employees provides 40 hours of sick leave at the beginning of each year, and an employer that employ fewer than 15 employees provides 24 hours of sick leave at the beginning of each year (§ 626.03(g)). Employers may not retaliate against workers for using sick leave and must give workers notice of their rights under the law (§626.05, 626.06).

Shortly after the law was passed, the Pennsylvania Restaurant and Lodging Association and a number of private businesses sued to invalidate the law on home rule grounds. The Service Employees International Union Local 32BJ intervened in the case and assisted the city in defending the law. In July 2019, The Pennsylvania Supreme Court rejected the Association’s challenge, ruling that law was a valid exercise of the City’s authority. The City is currently developing regulations for implementing it.

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<sup>i</sup> See Kevin Miller et al., Institute for Women’s Policy Research *Paid Sick Days and Employer Penalties for Absence* (July 2011), available at <http://www.iwpr.org/publications/pubs/paid-sick-days-and-employer-penalties-for-absence>

<sup>ii</sup> See U.S. Bureau of Labor Statistics, *Employee Benefits Survey. Leave benefits: Access, private industry workers, National Compensation Survey* (March 2011), available at <http://www.bls.gov/ncs/ebs/benefits/2011/ownership/private/table21a.htm>

<sup>iii</sup> See Tom Smith & Jibum Kim, National Opinion Research Center at the University of Chicago, *Paid Sick Days: Attitudes and Experiences* (June 2010), available at <http://www.nationalpartnership.org/research-library/work-family/psd/paid-sick-days-attitudes-and-experiences.pdf>

<sup>iv</sup> See Claudia Williams et al., Institute for Women’s Policy Research, *44 Million U.S. Workers Lacked Paid Sick Days in 2010: 77 Percent of Food Service Workers Lacked Access* (January 2011), available at <http://www.iwpr.org/publications/pubs/44-million-u.s.-workers-lacked-paid-sick-days-in-2010-77-percent-of-food-service-workers-lacked-access>

<sup>v</sup> See Human Impact Partners, *A Health Impact Assessment of the Healthy Families Act of 2009* (September 2009), available at <http://www.humanimpact.org/component/jdownloads/finish/5/68>

<sup>vi</sup> See Tom Smith & Jibum Kim, *supra*.

<sup>vii</sup> See Steven Sumner et al., *Factors Associated with Food Workers Working while Experiencing Vomiting or Diarrhea*, 74(2) *Journal of Food Protection* 215 (2011), available at [http://www.cdc.gov/nceh/ehs/ehsnet/Docs/JFP\\_ill\\_food\\_workers.pdf](http://www.cdc.gov/nceh/ehs/ehsnet/Docs/JFP_ill_food_workers.pdf)

<sup>viii</sup> See Restaurant Opportunities Centers United, *Serving While Sick: High Risks & Low benefits for the Nation’s Restaurant Workforce, and Their Impact on the Consumer* (September 2010), available at [http://rocunited.org/wp-content/uploads/2013/04/reports\\_serving-while-sick\\_full.pdf](http://rocunited.org/wp-content/uploads/2013/04/reports_serving-while-sick_full.pdf)

<sup>ix</sup> See, e.g., U.S. Occupational Safety and Health Administration, *OSHA Fact Sheet: What Employers Can Do To Protect Workers from Pandemic Influenza* (2009), available at <http://www.osha.gov/Publications/employers-protect-workers-flu-factsheet.html>

<sup>x</sup> See Robert Drago & Kevin Miller, Institute for Women’s Policy Research, *Sick at Work: Infected Employees in the Workplace During the H1N1 Pandemic* (February 2010), available at <http://www.iwpr.org/publications/pubs/sick-at-work-infected-employees-in-the-workplace-during-the-h1n1-pandemic>

<sup>xi</sup> See S. Kumar et al., *The Impact of Workplace Policies and Other Social Factors on Self-Reported Influenza-Like Illness Incidence During the 2009 H1N1 Pandemic*, 102(1) *American Journal of Public Health* 134 (2012)