



Mandatory Paid Sick Leave Ordinance – City of Milwaukee

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Paid Sick Leave

- Direct Legislation
- +40,000 signatures, petitioning entity
- Ordinance submitted to Common Council
- Referendum on November 4th ballot
- Large Majority Vote (68 %) (anticipated...)
- Ordinance “on the books” 2 years
- Lack of ordinary legislation = problems
- Now we’re like San Fran and DC

Paid Sick Leave

- Who is covered? Private sector employers
- Who is eligible? FT, PT, or temporary employees....and “any person who is employed within the geographic boundaries of the city...”
- Number of paid sick days? 9/5 days/yr (72/40 hrs)
- “Accrues” 1 hr of paid sick for every 30 hrs worked
- Available for use after 90 days on the job
- Carryover “shall” occur. No pay out at termination. Maximum usage in year is 9/5 days.

Paid Sick Leave

- Use of “sick leave?” 1. Employee’s own illness, injury, treatment, or preventive medical care. 2. Same, but for employee’s “family member” 3. Absence for domestic abuse, sexual assault, or stalking – medical, relocation, or legal proceeding.
- “family member” = child, parent, spouse, grandparent, grandchild, sibling, spouse of sibling, domestic partner, or anyone “related by blood or affinity...”

Paid Sick Leave

- THOU SHALT NOT require unreasonable documentation of illness when employee takes sick leave
- THOU SHALT NOT impose unreasonable barriers to use of paid sick leave
- THOU SHALT NOT require disclosure of information relating to domestic abuse, sexual assault, or stalking
- THOU SHALT NOT require details of employee's condition
- THOU SHALT NOT retaliate
- So what about usual rules of call in, dr's note, etc?

Paid Sick Leave

- The \$64,000 question. Does your sick leave, PTO, paid leave = Ordinance paid sick leave?
- IF YES, match, no more
- IF NO, Ordinance sick days “sit on top” of your paid leave
- KEY LANGUAGE: “Any employer with a paid leave policy ...who makes available an amount of paid leave sufficient to meet the accrual requirements...that may be used for the same purposes and under the same conditions as paid sick leave....is not required to provide additional paid sick leave.”
- “9 + accelerated accumulation + self, family illness/treatment + no notice or dr’s slip = match”

Paid Sick Leave

- Notice or Posters: English, Spanish, and Hmong
- Must keep records documenting hrs worked by employees and paid sick leave taken. 5 years.
- City's Equal Rights Commission: receive complaints, remedy violations, issue subpoenas, and adopt rules
OR
- IF Commission, due to lack of funding or staffing, is unable to enforce, THEN sister agency Wage and Hour Division of Wis DWD has enforcement authority.

Paid Sick Leave

- Ordinance effective upon publication (10 days)
(November 12th)
- Implementation no later than 90 days following
publication (February 10, 2009)

Paid Sick Leave: Legal Challenge

- Notice of Claim; denied.
- Complaint and Motion for Injunction
- 9to5 Motion to Intervene (hearing on January 14)
- Injunction hearing (February 6)



MMAC's Main Arguments:

- Improper Enactment
 - Ballot question "...requiring employers within the City to provide paid sick leave to employees?"
- Ordinance is expressly preempted by Wis. Living Wage Act
- Ordinance is preempted by WFMLA
- Ordinance exceeds legislative authority of City; Invalidity
 - Extraterritorial regulation (Employer outside City but has employees "employed" within City's boundaries)
- Abuse of Police Powers – fact finding of "problem" and necessary "solution"
- Ordinance is void for vagueness

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