510 City-County Building
414 Grant Street
Pittsburgh, PA 15219

# City of Pittsburgh

## Legislation Details (With Text)

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| **File #:** | 2015-1825 **Version:** 4 | | |
| **Type:** | Ordinance | **Status:** | Passed Finally |
| **File created:** | 7/6/2015 | **In control:** | Committee on Finance and Law |
| **On agenda:** | 7/29/2015 | **Final action:** | 8/3/2015 |
| **Enactment date:** | 8/3/2015 | **Enactment #:** | 27 |
| **Effective date:** | | | |
| **Title:** | Ordinance supplementing the Pittsburgh Code, Title VI, Article 1, to add a new Section 626, "Paid Sick Days Act," to improve the public health by granting Paid Sick Time to employees in the city of Pittsburgh. | | |
| **Sponsors:** | Corey O'Connor, Natalia Rudiak, Deborah L. Gross, Reverend Ricky V. Burgess | | |
| **Indexes:** | PGH. CODE ORDINANCES TITLE 06 - CONDUCT | | |
| **Code sections:** | | | |
| **Attachments:** | | | |

| Date | Ver. | Action By | Action | Result |
|---|---|---|---|---|
| 8/13/2015 | 4 | Mayor | Signed by the Mayor | |
| 8/3/2015 | 4 | Standing Committees | AMENDED | Pass |
| 8/3/2015 | 4 | Standing Committees | Affirmatively Recommended as Amended | Pass |
| 8/3/2015 | 4 | Standing Committees | Affirmatively Recommended as Amended | Pass |
| 8/3/2015 | 4 | City Council | Passed Finally | Pass |
| 7/30/2015 | 3 | Committee on Hearings | Public Hearing Held | |
| 7/29/2015 | 3 | Standing Committees | AMENDED | Pass |
| 7/29/2015 | 3 | Standing Committees | Affirmatively Recommended as Amended | Pass |
| 7/29/2015 | 2 | Standing Committee | AMENDED | |
| 7/22/2015 | 4 | Standing Committees | Held in Committee | Pass |
| 7/22/2015 | 4 | Standing Committees | AMENDED | Pass |
| 7/22/2015 | 1 | Standing Committees | Held for Cablecast Public Hearing | Pass |
| 7/17/2015 | 1 | Post Agenda | Post Agenda Held | |
| 7/8/2015 | 1 | Standing Committees | Held for Cablecast Post Agenda | Pass |
| 7/7/2015 | 1 | City Council | Read and referred | |
| 7/7/2015 | 1 | City Council | Waived under Rule 8 | Pass |

Ordinance supplementing the Pittsburgh Code, Title VI, Article 1, to add a new Section 626, "Paid Sick Days Act," to improve the public health by granting Paid Sick Time to employees in the city of Pittsburgh.

**WHEREAS,** as the City of the Pittsburgh strives to be a “Most Livable City,” it is incumbent upon the City to promote policies that are in the best interest of its citizens, including policies that promote the health and wellbeing of Pittsburgh residents;

**WHEREAS,** approximately 40 percent of the City of Pittsburgh's private sector workers do not have access to paid sick time, while approximately 77 percent of the City's service workers, especially food service workers and healthcare workers, lack access to paid sick time; and

**WHEREAS,** many of the workforce members who lack access to paid sick days frequently have contact with the general public, posing a high public health risk and increasing the likelihood of transmission of communicable illnesses. Furthermore, research from the University of Pittsburgh Medical Center shows that access to paid sick leave in Pittsburgh can result in decreased transmission rates for influenza; and

**WHEREAS,** the introduction of paid sick time to the City of Pittsburgh's economy would result in benefits enjoyed by both employees and employers, as studies repeatedly demonstrate that employees who have access to paid sick time are more productive and less likely to come to work ill and unfit to perform their job as effectively and efficiently as possible, while also reducing the likelihood transmitting illnesses to coworkers. Additionally, paid sick time policies are shown to both reduce employee turnover and strengthen employee loyalty; and

**WHEREAS,** access to paid sick days further benefits children, as it affords parents the time to tend to their sick children without sacrificing a day's pay, thereby helping to prevent delayed medical treatment to children and possible hospitalizations; and

**WHEREAS,** providing paid sick time for residents of the City of Pittsburgh and prohibiting employers from interfering with, restraining, or denying an employee's use of paid sick time will improve the public health and protect employees who exercise the rights granted to them through this Ordinance from retaliation.

**Be it resolved that the Council of the City of Pittsburgh hereby enacts as follows:**

**Section 1.** Title VI, Article 1 of the Pittsburgh Code is hereby supplemented by adding the following Section 626:

(A) This Section shall be known as the "Paid Sick Days Act."

(B) The purpose of this Section is to enhance the public health by ensuring that employees across the city of Pittsburgh are able to earn Paid Sick Time.

(C) The City has the authority to enact this ordinance pursuant to its police powers; the Pennsylvania Constitution, Art. IX, Sec. 2; The Home Rule and Optional Plan Government Law, 53 Pa.C.S. §§ 2961; The Second Class City Law, 53 P.S. §§ 23103 & 23145; The Disease Prevention and Control Law, 35 P.S. § 521.16 (a)(c); and the City of Pittsburgh Home Rule Charter.

**Section 2.** Definitions for Purpose of This Ordinance:

(A) **AGENCY.** The Office of the City Controller or a Department or entity designated by the Office of the Mayor.

(B) **CALENDAR YEAR.** A regular and consecutive 12-month period, as determined by an employer and communicated to all employees.

(C) **CONSTRUCTION UNION.** A labor union that represents for purposes of collective bargaining employees involved in the work of construction, reconstruction, demolition, alteration, custom fabrication or repair work and who are enrolled or have graduated from a "registered apprenticeship program."

(D) **EMPLOY.** Is as defined in 43 P.S. § 333.103(f).

(E) **EMPLOYEE.** Is as defined in the Act of January 17, 1968, P.L. 11, No. 5, (43 P.S. Section 333.103 (g)).

(1) For the purposes of this Ordinance, "employee" does not include independent contractors, State and Federal employees, ~~or~~ any member of a construction union covered by a collective bargaining unit, or seasonal employees.

(F) **EMPLOYER.** A person, partnership, limited partnership, association, or unincorporated or otherwise, corporation, institution, trust, government body or unit or agency, or any other entity situated or doing business in the City and that employs one (1) or more persons for a salary, wage, commission or other compensation.

(1) For the purposes of this Ordinance, "employer" does not include either of the following:

(a) The United States Government; and

(b) The State of Pennsylvania including any office, department, agency, authority, institution, association or other body of the state, including the legislature and the judiciary.

(G) **FAMILY MEMBER.** Will be defined as:

(1) A biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, or a child to whom the employee stands *in loco parentis*;

(2) A biological, foster, adoptive, or step-parent, or legal guardian of an employee or an employee's spouse or domestic partner or a person who stood *in loco parentis* when the employee was a minor child;

(3) A person to whom the employee is legally married under the laws of any state;

(4) A grandparent or spouse or domestic partner of a grandparent;

(5) A grandchild;

(6) A biological, foster, or adopted sibling

(7) A domestic partner.

(8) Any individual for whom the employee has received oral permission from the employer to care for at the time of the employee's request to make use of sick time.

(H) **HEALTH CARE PROFESSIONAL.** Any person licensed under Federal or Pennsylvania law to provide medical or emergency services, including but not limited to doctors, nurses, and emergency room personnel.

(I) **PAID SICK TIME.** Time that is compensated at the same base rate of pay, and with the same benefits, including health care benefits, as an employee would have earned at the time of their use of the paid sick time.

(1) In no case shall the hourly wage with which an employee making use of paid sick time is compensated be less than that provided under 43 P.S. § 333.104(a).

(a) Employees making use of sick time are not entitled to compensation for lost tips or commissions, and compensation shall only be required for hours that an employee was scheduled to have worked.

(J) **PITTSBURGH.** The geographic boundaries of the City of Pittsburgh.

(K) **REGISTERED APPRENTICESHIP PROGRAM.** An apprenticeship program that is registered

with and approved by the United States Department of Labor and which meets not less than two of the following requirements: (A) has active, employed, registered apprentices; (B) has graduated apprentices to journey worker status during a majority of the years that the program has been in operation; or (C) has graduated apprentices to journey worker status during three of the immediately preceding five years, provides each trainee with combined classroom and on-the-job training under the direct and close supervision of a highly skilled worker in an occupation recognized as an apprenticeable trade and meets the program performance standards of enrollment and graduation under 29 C.F.R. Part 29, section 29.63.1.

(L) **SEASONAL EMPLOYEE.** A person who has been hired for a temporary period of not more than sixteen weeks during a calendar year and has been notified in writing at the time of hire that the individual's employment is limited to the beginning and ending dates of the employer's seasonal period, as determined by the employer.

(M) **SICK TIME.** Refers to both paid and unpaid sick time, unless otherwise specified.

(N) **UNPAID SICK TIME.** Time that an employee may use for the reasons enumerated in 626.04 of this Ordinance that is not compensated at the same hourly rate, including health care benefits, as an employee typically earns from their employment at the time of their use of the unpaid sick time.

**Section 3.** Accrual of Sick Time.

(A) All employees shall have the right to sick time, established herein.

(B) All employees of employers with 15 or more employees shall accrue a minimum of one (1) hour of paid sick time for every 35 hours worked in Pittsburgh unless the employer provides a faster accrual rate.

(1) Employees of employers with 15 or more employees shall be permitted to accrue no more than 40 hours of paid sick time in a calendar year, unless the employer designates a higher amount.

(a) At no point shall an employee of an employer with 15 or more employees be permitted to have access to more than 40 hours of paid sick time, unless the employer designates a higher amount.

(C) All employees of employers with fewer than 15 employees shall accrue a minimum of one (1) hour of sick time for every 35 hours worked in Pittsburgh, unless the employer provides a faster accrual rate.

(1) From the effective date of this Ordinance until the completion of one year after the effective date, employees of employers with fewer than 15 employees shall be permitted to accrue no more than 24 hours of unpaid sick time, unless the employer designates a higher amount.

(2) Henceforth, after the passage of one year after the effective date of this Ordinance, employees of employers with fewer than 15 employees shall be permitted to accrue no more than 24 hours of paid sick time, unless the employer designates a higher amount.

(a) Henceforth, at no point shall an employee of an employer with fewer than 15 employees be permitted to have access to more than 24 hours of paid sick time, unless an employer designates a higher amount.

(D) Employees who are exempt from overtime requirements under 29 U.S.C. § 213(a)(1) of the Federal Fair Labor Standards Act will be assumed to work 40 hours in each workweek for purposes of sick time accrual, unless their normal workweek is less than 40 hours, in which case sick time accrues based upon that normal workweek.

(E) The accrual of sick time, as provided in this Ordinance, shall begin on the effective date of this

Ordinance, as to an employee who is employed as of such effective date. All employees who become employed after such effective date shall begin to accrue paid sick time at the commencement of their employment.

(F) All employees shall be entitled to use accrued sick time beginning on the 90th calendar day following the commencement of their employment.

(G) Accrued sick time shall be carried over to the following calendar year, except when:

(1) An employer that employs 15 or more employees provides at least 40 hours of paid sick time at the beginning of each calendar year; or

(2) An employer that employs fewer than 15 employees provides at least 24 hours of paid sick time at the beginning of each calendar year.

(H) An employer is not obligated to provide financial or other reimbursement to an employee upon the employee's termination, resignation, retirement, or other separation from employment for unused sick time that has been accrued.

(I) If an employee is transferred to a separate division, entity or location, but remains employed by the same employer, the employee is entitled to all sick time accrued at the prior division, entity or location and is entitled to use all sick time as provided in this Section.

(1) When there is a separation from employment and the employee is rehired within 6 months of separation by the same employer, previously accrued paid sick time that had not been used shall be reinstated.

(a) The employee shall be entitled to use accrued paid sick time and accrue additional paid sick time at the re-commencement of employment.

(J) At its discretion, the employer may loan sick time to the employee in advance of accrual by such employee.

(K) When a different employer succeeds or takes the place of an existing employer, all employees of the original employer who remain employed by the successor employer are entitled to all earned sick time accrued when employed by the original employer and are entitled to use all earned sick time previously accrued.

(L) Any employer with a paid leave policy, such as a paid time off policy, who makes available an amount of paid leave sufficient to meet the accrual requirements of this Section that may be used for the same purposes and under the same conditions as sick time under this Ordinance is not required to provide additional sick time.

(M) Any employer with a collective bargaining agreement that makes available a sufficient amount of paid leave to meet the accrual requirements of this Section that may be used for the same purposes and under the same conditions as sick time under this Ordinance is not required to provide additional sick time.

**Section 4.** Use of Sick Time.

(A) The sick time accrued by an employee may be used for:

(1) An employee's mental or physical illness, injury or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; an employee's need for preventive medical care;

(2) Care of a family member with a mental or physical illness, injury or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury

or health condition; care of a family member who needs preventive medical care; or

(3) Closure of the employee's place of business by order of a public official due to a public health emergency or an employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency, or care for a family member when it has been determined by the health authorities having jurisdiction or by a health care provider that the family member's presence in the community would jeopardize the health of others because of the family member's exposure to a communicable disease, whether or not the family member has actually contracted the communicable disease.

(B) An oral request shall be provided to the employer by the employee upon the use of sick time. The request shall include the anticipated duration of the absence when possible.

(1) An employer shall be permitted to maintain its own notification policy that shall dictate how soon before an employee's shift the employee must make their oral request to make use of sick time.

(a) The employer's notification policy shall be reasonable and shall not obstruct an employee's use of sick time.

(b) If an employer does not maintain its own notification policy, an employee shall provide their oral request for the use of sick time to the employer at least one (1) hour prior to the start of their shift.

(c) In the event such need for sick time is not foreseeable by the employee, the employee shall make a good faith effort to notify the employer as soon as possible.

(C) In the event that the need for the use of sick time is known to the employee in advance, such as a scheduled appointment with a health care provider, the employer may require reasonable advance notice of the intention to use such sick time not to exceed seven days prior to the date such sick time is to begin. The employee shall make a reasonable effort to schedule the use of sick time in a manner that does not unduly disrupt the operations of the employer.

(1) In the event ~~of~~ such need for sick time is not foreseeable by the employee, or should an employee be unable to meet the seven-day requirement of 626.04(C), an employee shall make a good faith effort to notify the employer as soon as possible of the need to use sick time in such a situation.

(D) An employee may use their sick time in the smaller of hourly increments or the smallest increment that the employer's payroll system uses to account for absences or use of other time.

(E) For the use of sick time that lasts three (3) or more full consecutive days, an employer may require the employee to present reasonable documentation that the sick time has been used for a purpose covered and protected by Subsection A of Section 3 of this Ordinance.

(1) Documentation signed by a health care professional indicating that sick time is necessary shall be considered reasonable documentation. An employer may not require that the documentation explain the precise nature of the illness.

(F) An employer may not require that an employee making use of accrued sick time search for or find a replacement worker to cover the hours during which the employee is ~~on~~ using sick on time as a condition for providing sick time.

**Section 5.** Exercise of Rights Protected; Retaliation Prohibited.

(A) It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the

exercise of, or the attempt to exercise, any right protected under this Ordinance.

(B) An employer shall not retaliate or discriminate against an employee because the employee has exercised rights protected under this Ordinance. Such rights include but are not limited to the right to use sick time pursuant to this Ordinance; the right to file a complaint with the Agency or a court; the right to inform any person about any employer's alleged violations of this Ordinance; and the right to inform any person of his or her potential rights under this Section.

(C) It shall be a violation of this Ordinance for any employer's absence control policy to count sick time taken under this Ordinance as an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other adverse action~~.~~ unless the Employee does not follow the applicable notification and documentation procedures in Section 4.

(D) Protections of this Section shall apply to any person who mistakenly but in good faith alleges violations of this Section.

(E) There shall be a rebuttable presumption of unlawful retaliation under this Section whenever an employer takes adverse action against a person within 90 days of when that person:

(1) Files a complaint with the Agency or a court alleging violation of any provision of this Section;

(2) Informs any person about an employer's alleged violation of this Section;

(3) Cooperates with the Agency or other persons in the investigation or prosecution of any alleged violation of this Section;

(4) Opposes any policy, practice, or act that is unlawful under this Section; or

(5) Informs any person of his or her rights under this Section.

**Section 6.** Notice.

(A) Employers shall give written notice that employees are entitled to sick time, the amount of sick time, and the terms of its use guaranteed under this Ordinance, that retaliation against employees who request or use sick time is prohibited and that each employee has the right to file a complaint with the Agency if sick time as required by this Section is denied by the employer or the employee is retaliated against for requesting or taking sick time.

(B) The Agency shall have the power to determine the mechanism by which employers comply with this Section, and shall make this determination before the effective date of this Ordinance.

(1) The Agency shall promulgate all material relevant to this Section and necessary for an employer to comply with the requirements of this Section, making said material available through the City of Pittsburgh's website.

(C) The City Finance Department shall allow the Agency, with appropriate notice and at a mutually agreeable time, to access the records necessary to enforce compliance under this Section.

(D) An employer who willfully violates the notice requirements of this Section shall be subject to a ~~civil~~ fine in an amount not to exceed $100 for each separate offense.

**Section 7.** Employer Records.

(A) Employers shall retain records documenting hours worked by employees and sick time taken by employees, for a period of two years, and shall allow the Agency access to such records, with appropriate



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notice and at a mutually agreeable time, to monitor compliance with the requirements of the Ordinance.

(B) When an issue arises as to an employee's entitlement to sick time under this section, if the employer does not maintain or retain adequate records documenting hours worked by the employee and sick time taken by the employee, or does not allow the Agency reasonable access to such records, it shall be presumed that the employer has violated the Ordinance, absent clear and convincing evidence otherwise.

**Section 8.** Regulations.

(A) The Agency shall be authorized to coordinate implementation and enforcement of this Ordinance and shall promulgate appropriate guidelines and / or regulations for such purposes.

**Section 9.** Enforcement.

(A) An employer, employee, or authorized representative may report to the Agency any suspected violation of this Ordinance.

(B) The Agency shall be authorized to take such steps as deemed appropriate to resolve complaints and enforce this Ordinance, including, but not limited to, establishing a system to receive complaints regarding non-compliance with this Ordinance, investigating alleged violations in a timely manner, and resolving complaints through mediation.

(C) An employer, employee, or authorized representative alleging a violation of this Ordinance shall file a complaint with the Agency within six months of the date they knew or should have known of the alleged violation. The Agency shall maintain confidential the identity of any complainant unless disclosure of such complainant's identity is necessary for resolution of any investigation by the Agency, or otherwise required by law. The Agency shall, to the extent practicable, notify such complainant that the Agency will be disclosing his or her identity prior to such disclosure.

(D) Upon receiving a complaint alleging a violation of this Ordinance, the Agency shall investigate such complaint and, if appropriate, attempt to resolve it through mediation. The Agency shall keep complainants reasonably notified regarding the status of their complaint and any resulting investigation and shall notify complainants of the final decision of the Agency with respect to the complaint.

(E) The Agency shall have the power to impose penalties and fines for violation of this Ordinance and provide all appropriate relief, including but not limited to full restitution to the employee for all lost wages and benefits and reinstatement, as well as permitting an employer to take disciplinary action, as per the employer's policies.

(1) An employer who willfully violates the rules of this Ordinance shall be subject to a fine in an amount not to exceed $100 for each separate offense.

(a) No fines shall be levied by the Agency against any employer starting from the effective date of this Ordinance to one year after the effective date of this Ordinance.

**Section 10.** Confidentiality and Nondisclosure.

(A) An employer may not require disclosure of details relating to an employee's or an employee's family member's medical condition as a condition of providing ~~paid~~ sick time under this Ordinance.

(B) If an employer possesses health information about an employee or an employee's family member,

such information shall be treated as confidential and not disclosed, except to the affected employee or with the written permission of the affected employee in accordance with applicable Federal and State medical privacy provisions.

**Section 11.** Effects on Other Policies

(A) Nothing in this Ordinance shall be construed to discourage or prohibit an employer from the adoption or retention of a ~~paid~~ sick time policy more generous than the one required herein.

(B) Nothing in this Ordinance shall be construed as diminishing the obligation of an employer to comply with any contract, collective bargaining agreement, employee benefit plan or other agreement providing more generous sick time to an employee than required herein.

(C) Nothing in this Ordinance shall be construed as diminishing the rights of public employees regarding sick time or use of sick time as provided in the laws of Pennsylvania.

**Section 12.** Other Legal Requirements

(A) This Ordinance provides minimum requirements pertaining to ~~paid~~ sick time and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy or standard that provides for greater accrual or use by employees of sick time or that extends other protections to employees.

**Section 13.** Public Education and Outreach

(A) The Agency shall develop multilingual informational materials to inform employers and employees about the availability of sick time under this Ordinance. This program shall include the development of notices and other written materials in English and in other languages.

**Section 14.** Severability

(A) If any provision of this Ordinance or application thereof to any person or circumstances is judged invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

**Section 15.** Effective Date

(A) This Ordinance shall take effect on the 90th calendar day following the posting of the regulations and notice information for employers by the Agency, as per Section 626.06 of this Ordinance.