

Arizona – Sick Leave Policy

What is earned paid sick time?

Earned paid sick time is leave time that is compensated at the same hourly rate (but no less than minimum wage) and with the same benefits, including health care benefits, that an employee would have received for the work hours during which earned paid sick time is used. Generally, employees may use earned paid sick time in the following circumstances:

- Medical care or mental or physical illness, injury, or health condition of the employee or any of the employee’s family members (see the definition of “family member” in Arizona Revised Statutes § 23-371 to see who qualifies as a family member);
- A public health emergency affecting the employee or a family member of the employee pursuant to Arizona Revised Statutes § 23-373; and
- An absence due to domestic violence, sexual violence, abuse, or stalking involving the employee or any of the employee’s family members (see the definition of “family member” in Arizona Revised Statutes § 23-371 to see who qualifies as a family member). See Arizona Revised Statutes § 23-373 for further detail concerning authorized uses of earned paid sick time.

When can employees begin accruing earned paid sick time?

Employees can begin accruing earned paid sick time at the commencement of employment.

What can paid sick time be used for?

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- A public health emergency affecting the employee or a family member of the employee pursuant to Arizona Revised Statutes § 23-373; and
- An absence due to domestic violence, sexual violence, abuse, or stalking involving the employee or any of the employee’s family members (see the definition of “family member” in Arizona Revised Statutes § 23-371 to see who qualifies as a family member).

Is a service animal a “family member” under the Act?

Absent additional legislative or judicial guidance, the Industrial Commission will not enforce against an employer that does not consider a service animal a “family member” within the meaning of the Fair Wages and Healthy Families Act. However, the loss or incapacitation of a service animal may give rise to a qualifying condition for the use of earned paid sick time (such as a mental or physical illness, injury, or health condition of the employee or the employee’s family member).

What is a public health emergency within the meaning of the Act?

A “public health emergency” means a state of emergency declared by the governor in which there is an occurrence or imminent threat of an illness or health condition caused by bioterrorism, an epidemic or pandemic disease or a highly fatal infectious agent or biological toxin and that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability. See A.A.C. R20- 5-1202(24).

When can an on-call employee use earned paid sick time?

Absent additional statutory or judicial guidance, the Industrial Commission does not intend to enforce against employers who restrict on-call employees’ earned paid sick time use to periods of time in which the on-call employee is scheduled to work, or periods of time that the on-call employee would be scheduled to work but for circumstances justifying the use of earned paid sick time.

How much earned paid sick time must an employer offer an employee?

For employers with 15 or more employees: Employees are entitled to accrue a minimum of one hour of earned paid sick time for every 30 hours worked, but employees are not entitled to accrue or use more than 40 hours of earned paid sick time per year, unless the employer selects a higher limit.

What is a “year” for earned paid sick time purposes?

Under the Fair Wages and Healthy Families Act, a “year” is defined as a regular and consecutive 12-month period as determined by the employer. An employer may, therefore, designate its “year” as it sees fit. Advantis Global operates on a calendar year period (Jan – Dec)

How does an employer determine hourly rates for earned paid sick time payment purposes?

A.A.C. R20-5-1201(25) provides methods for calculating employees' hourly rates for various types of wages (single hourly rate; multiple hourly rates of pay; salaried employees; and commission, piece-rate, and fee-for-service wages). In no case may the hourly rate paid for earned paid sick time be less than minimum wage.

- For employees with a single hourly rate.

The same hourly rate that the employee would have earned for the period of time in which earned paid sick time is used, but in no case less than minimum wage.

- For employees with multiple hourly rates.

The hourly rate the employee would have earned, if known, for each hour of earned paid sick time used. If this is not known, an employer should use the weighted average of all hourly rates of pay during the previous pay period.

- For salaried employees.

The wages an employee earns during each pay period covered by the salary divided by the number of hours agreed to be worked during each pay period, if the number of hours to be worked during each pay period was previously established. If unknown, the wages an employee earns during each workweek covered by the salary in the current year divided by 40 hours. The Industrial Commission will consider an acknowledged policy concerning the number of hours to be worked during each pay period adequate evidence of an agreement between employee and employer.

Must an employer include shift differentials and hazard pay in calculating an employee's hourly rate for earned paid sick time purposes?

Shift differentials and premiums meant to compensate an employee for work performed under differing conditions (such as hazard pay or a shift differential for working at night) must be included when computing an employee's hourly rate for earned paid sick time purposes. See A.A.C. R20-5-1202(25)(e). On the other hand, overtime, holiday pay, bonuses, other types of incentive pay (which do not include shift differentials and premiums meant to compensate and employee for work performed under differing conditions), tips, and gifts do not need to be included in an hourly rate determination. See A.A.C. R20-5- 1202(25)(f).

Must an employer pay an employee for unused earned paid sick time at the end of each year or at separation?

No, the Fair Wages and Healthy Families Act does not require an employer to pay employees for unused earned paid sick time at the end of each year or at separation.

Is an employer required to provide notice to its employees concerning earned paid sick time rights and responsibilities?

Yes. Employers must provide employees written notice of the following at the commencement of employment or by July 1, 2017, whichever is later:

- Employees are entitled to earned paid sick time;
- The amount of earned paid sick time that employees are entitled to accrue;
- The terms of use guaranteed by Arizona’s earned paid sick time laws;
- That retaliation against employees who request or use earned paid sick time is prohibited;
- That each employee has the right to file a complaint if earned paid sick time is denied by the employer or the employee is subjected to retaliation for requesting or taking earned paid sick time; and
- Contact information for the Industrial Commission.

An employer must also provide employees either in or on an attachment to the employee’s regular paycheck:

- The amount of earned paid sick time available to the employee. “Amount of earned paid sick time available to the employee” means the amount of earned paid sick time that is available to the employee for use in the current year.
- The amount of earned paid sick time taken by the employee to date in the year. “Amount of earned paid sick time taken by the employee to date in the year” means the amount of earned paid sick time taken by the employee to date in the current year. Where an employee has used available equivalent paid time off for either the purposes enumerated in Arizona Revised Statutes § 23-373 or other purposes, the employer may count that usage towards the “amount of earned paid sick time taken by the employee to date in the year.” See A.A.C. R20-5-1202(4); and
- The amount of pay the employee has received as earned paid sick time. “Amount of pay the employee has received as earned paid sick time” means the amount of pay the employee has received as earned paid sick time to date in the current year. Where an employee has received pay for equivalent paid time off for the purposes enumerated in Arizona Revised Statutes § 23- 373 or other purposes, the employer may count that pay towards the “amount of pay the employee has received as earned paid sick time.” See A.A.C. R20-5-1202(5). “Employee’s regular paycheck” means a regular payroll record that is readily available to

employees and contains the information required by Arizona Revised Statutes § 23-375(C), including physical or electronic paychecks or paystubs. See A.A.C. R20-5-1202(13).

How soon can an employee begin using earned paid sick time?

An employee may use earned paid sick time as it is accrued or otherwise available for use. An employer may require an employee hired after July 1, 2017, to wait 90 calendar days after the start of employment before using accrued earned paid sick time.

Is there a new-hire probation period before earned paid sick time begins to accrue?

No. Employees are entitled to accrue earned paid sick time immediately upon hire. The employer, however, may require that employees hired after July 1, 2017, wait 90 days before they can use earned paid sick time.

How is the accrual of earned paid sick time calculated for exempt employees?

An employee who is exempt under the federal Fair Labor Standards Act is presumed to work 40 hours per workweek, unless the employee's normal workweek is less than 40 hours (in which case accrual of earned paid sick time is based on the employee's hours in a normal workweek).

Must an employer carry forward balances of unused earned paid sick time at the end of a year to the next year?

The Fair Wages and Healthy Families Act (the "Act") provides that earned paid sick time must be carried over to the following year, subject to usage limitations based on employer size. Carry over does not affect accrual or use rights under the Act. Example 1. Employer with 15 or more employees. Employee A accrues 40 hours of earned paid sick time in Year 1 and does not use any of the accrued time. Employee A will carry forward the 40 hours of accrued but unused earned paid sick time to Year 2 (unless the employer exercises its buy back option pursuant to Arizona Revised Statutes § 23-372(D)(4)). Assuming the employer did not buy back hours pursuant to Arizona Revised Statutes § 23-372(D)(4), Employee A remains entitled to accrue another 40 hours of earned paid sick time in Year 2 (for a maximum balance of 80 hours). If, at the end of Year 2, Employee A has 80 hours of unused earned paid sick time and the employer does not exercise its buyback option pursuant to Arizona Revised Statutes § 23-372(D)(4), Employee A is entitled to carry forward only 40 hours of earned paid sick time into Year 3 (though they may accrue another 40 hours in the

course of Year 3). NOTE: Subject to the employer's agreement to be more generous than the Act requires, Employee A may only use 40 hours of earned paid sick time in any given year.

If an employee carries into a subsequent year the maximum amount of earned paid sick time that the employee can use in the subsequent year, will the employee still accrue additional earned paid sick time?

Yes. Carry over does not affect accrual, usage rights, or usage limits under the Fair Wages and Healthy Families Act. Carried over earned paid sick time, however, may remain subject to yearly usage limits.

What happens to accrued earned paid sick time if an employee is relocated or transferred within the same company?

The employee retains all accrued earned paid sick time already accrued at the prior division, entity, or location.

What happens to accrued earned paid sick time if an employee is separated from employment and later rehired?

If rehire occurs within nine months of separation from the same employer, any previously accrued, unused earned paid sick time must be reinstated, and the employee is entitled to use and accrue earned paid sick time immediately at the re-commencement of employment.

Must an employee give an employer advance notice of intent to use earned paid sick time?

When foreseeable, an employee must make a good faith effort to provide notice of the need to use earned paid sick time in advance and should schedule the leave in a manner that does not unduly disrupt the employer's operations. When leave is not foreseeable, an employer may require an employee to follow a written policy that contains procedures for the employee to provide notice. An employer that has not provided to the employee a copy of its written policy for providing such notice may not deny earned paid sick time to the employee based on non-compliance with such a policy.

Can an employer require notice of the need to use earned paid sick time when the need is not foreseeable?

Yes, provided that the employer provides a written policy that contains procedures for providing notice. If the employer does not provide an employee with a copy of the written

policy, the employer cannot deny the use of earned paid sick time for the employee's failure to follow the policy.

What is the smallest increment of earned paid sick time that an employee can use?

Earned paid sick time can either be used in hourly increments or the smallest increment of time that an employer utilizes, by policy or practice, to account for absences or use of other paid time off, whichever is smaller.

What can paid sick time be used for?

Reasonable documentation includes documentation signed by a health care professional indicating that the earned paid sick time is necessary. In the case of domestic violence, sexual violence, abuse or stalking, the following documents are considered reasonable:

- A police report;
- A protective order, injunction against harassment, general court order, or other evidence from a court or prosecuting attorney;
- A signed statement from a domestic violence or sexual violence program, or victim services organization affirming that the employee or employee's family member is receiving services related to domestic violence, sexual abuse, or stalking;
- A signed statement from a witness advocate concerning services from a victim services organization affirming that the employee or employee's family member is receiving services related to domestic violence, sexual abuse, or stalking;
- A signed statement from an attorney, member of the clergy, or a medical or other professional affirming that the employee or employee's family member is receiving services related to domestic violence, sexual abuse, or stalking; or
- An employee's legible, written statement concerning status of the employee or the employee's family member as a victim of domestic violence, sexual violence, abuse, or stalking that signals the employee's identity and (if applicable) relationship to the family member.

Retaliation Prohibited by Law

No employer shall take retaliatory personnel action or discriminate against an employee because the employee requests or uses earned sick leave either in accordance with this act or the employer's own earned sick leave policy, as the case may be, or files a complaint alleging

the employer's violation of any provision of this act, or informs any other person of their rights under this act. No employer shall count earned sick leave taken under this act as an absence that may result in the employee being subject to discipline, discharge, demotion, suspension, a loss or reduction of pay, or any other adverse action.

Contact Information

Employees with questions about this paid sick leave policy may contact
HR@advantisglobal.com