

Employers Do Not Need ‘Safe Harbor’ From State and Local Paid Sick Days Laws

NOVEMBER 2017

H.R. 4219 – the deceptively named Workflex in the 21st Century Act – is a poorly disguised attempt to take away workers’ rights to paid sick time and fair and predictable scheduling practices. States and municipalities have increasingly been stepping up to guarantee working people paid sick time, as evidence that doing so benefits the health and well-being of communities, businesses and economies continues to grow. [Forty jurisdictions](#) now provide, or will soon provide, such protections.

In an effort to block this progress and momentum, the organized big business lobby is pushing at the federal level for H.R. 4219, legislation that would allow companies to bypass state and local paid sick time laws. One of its arguments is that businesses need protection from varying state and local requirements. Here’s why that claim doesn’t hold up.

- ▶ **Employers can already establish one standard for all of their employees.** If employers have employees in multiple jurisdictions with paid sick days laws and they think it would be easier to have one standard for all of their employees, they can establish that standard on their own right now. They don’t need a law like H.R. 4219 to do so. Employers that have the same policy for all of their employees can easily track paid sick time.
- ▶ **Employers are used to complying with laws in multiple jurisdictions, including internationally.** Many states have health, safety and environmental requirements that differ from federal law. For example, 29 states have their own minimum wage requirements that are higher than the federal minimum; states have their own laws governing the payout of vacation days; and a number of states have various types of “off-duty” laws that prohibit employers from taking adverse action against employees because of conduct outside of work.¹ Companies that do business outside of the United States must also comply with other countries’ laws, including labor and employment laws. In a global market in which 58 percent of small businesses have some type of international presence,² complying with varied standards is not new to most employers.
- ▶ **Paid sick days laws are similar to one another.** Because the laws have the same basic components, it is not difficult for employers to comply with more than one law.
- ▶ **To comply with multiple paid sick days laws, employers simply have to comply with the most protective aspect of each law.** An employer that wants to comply with all 40 paid sick days laws would follow these standards:

- ▶ **Accrual of sick time.** Employees would immediately start accruing one hour of paid sick time for every 30 hours worked. Some jurisdictions require one hour for every 30 hours worked, others require one hour for every 40 hours worked. Therefore, by setting accrual at one hour for every 30 hours worked, the employer would comply with the highest accrual standard and, thereby, with all of the paid sick days laws. Capping accrual at 72 hours per year would satisfy nearly all laws currently enacted. In addition, allowing workers to begin accrual of paid sick time immediately but requiring them to wait 90 days after being hired to use the accrued time would be compliant with all laws.
- ▶ **Use of sick time.** The employer would allow sick time to be used to care for an employee's own or a family member's mental or physical illness, injury or health condition, including a medical diagnosis, care, treatment or recovery; for preventive medical care; domestic violence purposes; the closure of a school or place of business due to public health concerns; and for bonding and bereavement purposes. If an employer has employees in some but not all of the 40 jurisdictions, they may not need to allow employees to use sick time for all of these purposes.
- ▶ **Definition of "family member" for whom sick time can be used.** Employees could use their sick time to care for a spouse or domestic partner; a child, sibling, parent, grandparent, grandchild or legal ward or guardian of the employee or employee's spouse or domestic partner (whether of a biological, foster, adoptive or step relationship), and the spouses or domestic partners of these individuals; a person to whom the employee stands or stood in loco parentis; or any other individual related by blood or affinity whose close association with the employee or employee's spouse or domestic partner is the equivalent of a family relationship.

Federal law should build upon state and local advances – not usurp state and local control over the health and well-being of working people. Employers who are serious about having a national paid sick days standard should support a real federal solution like the [Healthy Families Act](#).

1 U.S. Department of Labor. (2017, July 1). *Minimum Wage Laws in the States – July 1, 2017*. Retrieved 15 September 2017, from <https://www.dol.gov/whd/minwage/america.htm>; The Lunt Group. (n.d.). Vacation Leave Law Summaries. *Employment Law Handbook*. Retrieved 15 September 2017, from <http://www.employmentlawhandbook.com/leave-laws/vacation-leave-laws/vacation-leave-law-summaries/>; U.S. Department of Labor. (2017, January 1). *Minimum Length of Meal Period Required under State Law for Adult Employees in Private Sector*. Retrieved 15 September 2017, from <https://www.dol.gov/whd/state/meal.htm>

2 Bose, S. (2016, August 26). 58 Percent of Small Businesses Already Have International Customers, Survey Finds. *Small Business Trends*. Retrieved 15 September 2017, from <https://smallbiztrends.com/2016/08/small-businesses-going-global-survey.html>

The National Partnership for Women & Families is a nonprofit, nonpartisan advocacy group dedicated to promoting fairness in the workplace, access to quality health care and policies that help women and men meet the dual demands of work and family. More information is available at NationalPartnership.org.

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