

PROPOSED INITIATIVE ORDINANCE
ORDINANCE NO.

Bill 54 -2026

AN ORDINANCE

Amending the City of Allentown Public Health Code by adding Chapter 421, Paid Sick Leave Act, to improve the public health by requiring certain businesses to allocate sick time to employees.

Section One: That Chapter 421, Paid Sick Leave, be added to the Code of the City of Allentown and read as follows:

Chapter 421 - Paid Sick Leave

421-1. Title.

This Chapter shall be known as the Paid Sick Leave Act.

§421-2. Purpose.

The purpose of this Chapter is to enhance the public safety by ensuring that employees in the City of Allentown are able to earn and use paid sick leave.

§ 421-3. Authority.

The City has the authority to enact this Chapter 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, et seq.; The Disease Prevention and Control Law, 35 P.S. 521.16; The Third Class City Law, II Pa.C.S.S 12307; and the City of Allentown Home Rule Charter.

421-4. Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section 421-4, except where the context clearly indicates a different meaning:

- A. ALLENTOWN is defined as the geographic boundaries of the City of Allentown.
- B. AGENCY is defined as the Board of Health of the City of Allentown.
- C. CALENDAR YEAR is defined as a regular and consecutive twelve-month period, as determined by an employer and communicated to all employees.
- D. CONSTRUCTION UNION is defined as 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 (as defined in this Section 421-4). E. EMPLOY is defined as in 43 P.s. 333.103(f). F. EMPLOYEE is defined as in 43 P.s. 333.103(g).

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

G. ENIPLOYER is defined as a person, partnership, limited parnership, 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 (l) or more persons for a salary, wage, commission or other compensation.

- (1) For the purposes of this Chapter, "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. H.

FAMILY MEMBER is 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; or
- (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.

I. HEALTH CARE PROFESSIONAL is defined as 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.

J. PAID SICK TIME is defined as 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.

- K. REGISTERED APPRENTICESHIP PROGRAM is defined as an apprenticeship program that is registered with and approved by the United States Department of Labor and which meets not less than two (2) 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 (3) of the immediately preceding five (5) 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.
- L. SEASONAL EMPLOYEE is defined as a person who has been hired for a temporary period of not more than sixteen (16) 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 is defined as time that an employee may use for the reasons enumerated in Section 421-6 of this Chapter 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.

421-5. Accrual of Sick Time.

- A. All employees shall have the right to sick time established herein.
- B. All employees of employers with fifteen (15) or more employees shall accrue a minimum of one (1) hour of paid sick time for every thirty (30) hours worked in Allentown unless the employer provides a faster accrual rate.
 - (1) Employees of employers with fifteen (15) or more employees shall be permitted to accrue no more than seventy-two (72) hours of paid sick time in a calendar year, unless the employer designates a higher amount.
 - (2) At no point shall an employee of an employer with fifteen (15) or more employees be permitted to have access to more than seventy-two (72) hours of paid sick time, unless the employer designates a higher amount.
- C. All employees of employers with fewer than fifteen (15) employees shall accrue a minimum of one (1) hour of sick time for every thirty (30) hours worked in Allentown, unless the employer provides a faster accrual rate.
 - (1) Employees of employers with fewer than fifteen (15) employees shall be permitted to accrue no more than forty-eight (48) hours of paid sick time, unless the employer designates a higher amount.

(2) At no point shall an employee of an employer with fewer than fifteen (15) employees be permitted to have access to more than forty-eight (48) 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 forty (40) hours in each workweek for purposes of sick time accrual, unless their normal workweek is less than forty (40) hours, in which case sick time accrues based upon that normal workweek.
- E. The accrual of sick time, as provided in this Chapter, shall begin on the effective date of this Chapter, 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 no later than the ninetieth calendar day following the commencement of their employment. An employer may permit employees to use accrued sick time earlier than the ninetieth 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 fifteen (15) or more employees provides at least seventy-two (72) hours of paid sick time at the beginning of each calendar year; or
 - (2) An employer that employs fewer than fifteen (15) employees provides at least forty-eight (48) 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 Chapter.
- (1) When there is a separation from employment and the employee is rehired within six (6) months of separation by the same employer, previously accrued paid sick time that had not been used shall be reinstated. The employee shall be entitled to use accrued paid sick time and accrue additional paid sick time at the recommencement 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 421-5 that may be used for the same purposes and under the same conditions as sick time under this Chapter is not required to provide additional sick time.
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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 421-5 that may be used for the same purposes and under the same conditions as sick time under this Chapter is not required to provide additional sick time.

421-6. 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. Except as provided in paragraph (2) of this subsection 421-6(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.
- (2) This Chapter shall not be construed to require an employee to provide an oral request to use sick time in the event that the employee's employer maintains a written or electronic system through which employees request leave time and the employee uses such system to request sick time in accordance with the employer's policies; provided, however, that any employer who maintains such a system shall accept an employee's oral request to use sick time in accordance with this Chapter.

- 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 (7) 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 such need for sick time is not foreseeable by the employee, or should an employee be unable to meet the seven-day requirement of Section 421-6(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.
 - (2) 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.
- D. 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 Section 421-6(A).
- (1) Documentation sigled 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.
- E. 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 using sick on time as a condition for providing sick time.

§ 421-7. 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 Chapter.
- B. An employer shall not retaliate or discriminate against an employee because the employee has exercised rights protected under this Chapter. Such rights include, but are not limited to, the right to use sick time pursuant to this Chapter; 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 Chapter; and the right to inform any person of his or her potential rights under this Chapter.
- C. It shall be a violation of this Chapter for any employer's absence control policy to count sick time taken under this Chapter 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 421-6.
- D. Protections of this Section 421-7 shall apply to any person who mistakenly but in good faith alleges violations of this Chapter.
- E. There shall be a rebuttable presumption of unlawful retaliation under this Section 421-7 whenever an employer takes adverse action against a person within ninety (90) days of when that person:
 - (1) Files a complaint with the Agency or a court alleging violation of any provision of this Chapter;
 - (2) Informs any person about an employer's alleged violation of this Chapter;

- (3) Cooperates with the Agency or other persons in the investigation or prosecution of any alleged violation of this Chapter;
- (4) Opposes any policy, practice, or act that is unlawful under this Chapter; or
- (5) Informs any person of his or her rights under this Chapter.

421-8. 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 Chapter, 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 Chapter is denied by the employer or the employee is retaliated against for requesting or taking sick time.
- B. Employers shall inform each employee of the total amount of accrued but unused sick time available to that employee in writing at least once per month. Such notice may be provided by any written or electronic means of communication with the employee including, but not limited to, printing the employee's available sick time on the employee's pay stub.
- C. The Agency shall have the power to determine the mechanism by which employers comply with this Chapter, and shall make this determination before the effective date of this Chapter.
 - (1) The Agency shall promulgate all material relevant to this Chapter and necessary for an employer to comply with the requirements of this Chapter, making said material available through the City of Allentown's website.
 - (2) The Finance Department of the City of Allentown shall allow the Agency, with appropriate notice and at a mutually agreeable time, to access the records necessary to enforce compliance under this Chapter.
- D. An employer who willfully violates the notice requirements of this Chapter shall be subject to a fine in an amount not to exceed one hundred dollars (\$100.00) for each separate offense.

§ 421-9. Employer Records.

- A. Employers shall retain records documenting hours worked by employees and sick time taken by employees, for a period of two (2) years, and shall allow the Agency access to such records, with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of the Chapter.
- B. When an issue arises as to an employee's entitlement to sick time under this Chapter, 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 Chapter, absent clear and convincing evidence otherwise.

§ 421-10. Regulations.

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

421-11. Enforcement.

- A. An employer, employee, or authorized representative may report to the Agency any suspected violation of this Chapter by an employer.
- B. The Agency shall be authorized to take such steps as deemed appropriate to resolve complaints and enforce this Chapter, including, but not limited to, establishing a system to receive complaints regarding noncompliance with this Chapter, investigating alleged violations in a timely manner, and resolving complaints through mediation.
- C. An employer, employee, or authorized representative alleging a violation of this Chapter shall file a complaint with the Agency within six (6) 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 an employer's violation of this Chapter, 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 Chapter 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 Chapter shall be subject to a fine in an amount not to exceed one hundred dollars (\$100.00) for each separate offense.
 - (2) No fines shall be levied by the Agency against any employer starting from the effective date of this Chapter to one (1) year after the effective date of this Chapter.

§ 421-12. 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 sick time under this Chapter.
- 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.

421-13. Effects on Other Policies.

- A. Nothing in this Chapter shall be construed to discourage or prohibit an employer from the adoption or retention of a sick time policy more generous than the one required herein.
- B. Nothing in this Chapter 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 Chapter 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.

§ 421-14. Other Legal Requirements.

This Chapter provides minimum requirements pertaining to 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.

§ 421-15. Public Education and Outreach.

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