



## Texas Cities are Messin' with Paid Sick Leave: What Employers Need to Know and Do

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The cities of Austin, Dallas and San Antonio have passed ordinances that require employers to provide paid sick leave to eligible employees who work in these cities. While the Austin ordinance is facing legal challenges, the ordinances have garnered the support of more than 70% of Texas voters. Since the Dallas and San Antonio laws take effect August 1, 2019, employers should begin evaluating compliance steps now.

### Texas Law and the Paid Sick Leave Ordinances

Texas law does not require private employers to provide paid sick leave. In 2018, Austin passed a paid sick leave ordinance, but Austin appellate court declared it unconstitutional and enjoined its implementation. Many expected the Texas legislature to stop cities from adopting paid sick leave ordinances, but it didn't. San Antonio passed a paid sick leave ordinance in August 2018, and Dallas passed a nearly identical law in March of this year. The Texas Supreme Court will eventually rule on the validity these ordinances when it resolves the appeal of the Austin decision, but it will not likely do so until *after* the Dallas and San Antonio ordinances take effect this August.

### What Employers Need to Know

- Employees Entitled to Paid Sick Leave. Any employee who has worked in the city limits of Dallas or San Antonio at least 80 hours over the course of one year is eligible. Where the employer is located doesn't matter.
- Effective Dates. For employers with more than five employees, the effective date of the Dallas and San Antonio ordinances is **August 1, 2019**. Employers with five or fewer employees must comply by **August 1, 2021**. Employers who fail to comply may be fined up to \$500 beginning April 2020 if they fail to achieve compliance within 10 business days after written notice by the aggrieved employee.

- *Paid Leave Accrual.* Dallas and San Antonio employees will earn one hour of paid sick leave for every 30 hours worked in the city beginning on the date of employment or the effective date of the ordinance, whichever is later.
- *Caps on Accrual.* For employers with 15 or more employees, the cap is 64 hours per year. For employers with fewer than 15 employees, the cap is 48 hours per year.
- *Carryover.* Employees may carry over accrued, unused sick leave from one year to the next subject to the annual caps.
- *Use of Paid Sick Leave.* Employees may take paid sick leave for a wide range of reasons, including the employee's own illness, injury, health condition, or those of a spouse, child, parent, or other family member related by blood.

### What Employers Need to Do to Comply

If you have at least five employees and at least one working in Dallas or San Antonio, then you should consider taking the following steps now (unless the Texas Supreme Court affirms the invalidity of such ordinances) prior to August 1:

- Update your employee handbook or policies to address paid sick leave.
- Post the ordinance's requirements in a conspicuous place.
- Provide employees with a monthly statement showing the hours of paid sick time earned.
- While you may require a timely request to use paid sick leave, you cannot force the employee to find a replacement to cover a missed shift.
- Consider whether and how to implement a process for verifying the proper use of paid sick leave that exceeds three consecutive days, so long as the employee is not required to explain domestic abuse, sexual assault, or stalking.
- If you already provide paid sick leave that exceeds the standards of the ordinances, an employee is not entitled to additional time under the ordinances.
- Prohibit retaliation against an employee who either requests or uses paid sick leave or against any employee who reports a violation of the ordinance.
- Train managers and supervisors on the requirements of the new law and on complying with your anti-retaliation policy.
- If you have 50 or more employees in a 75 mile radius, ensure proper coordination with your FMLA leave administration.

GableGotwals has been helping employers with each of these critical compliance steps. If you need help in any of these areas, please contact any GableGotwals Labor & Employment attorney.



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