

ORDINANCE

By Frey

Amending Title 2, Chapter 40 of the Minneapolis Code of Ordinances relating to Administration: Workplace Regulations.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Section 40.40 of the above-entitled ordinance be amended by correcting the definition of "Employer", and adding in alphabetical order the definition of "Regular rate of pay" to read as follows:

40.40. Definitions. The following words and phrases when used in this chapter shall have the meanings ascribed to them in this section:

"Employer" means a person or entity that employs one (1) or more employees. The term includes an individual, corporation, partnership, association, nonprofit organization, or group of persons. For purposes of this chapter, "employer" does not include any of the following:

~~(a)~~ (1) The United States government.

~~(b)~~ (2) The State of Minnesota, including any office, department, agency, authority, institution, association, society or other body of the state, including the legislature and the judiciary.

~~(c)~~ (3) Any county or local government, except the city.

"Regular rate of pay" means the employee's hourly rate, including payments for shift differentials, for an hourly employee or an equivalent rate for an exempt employee. Regular rate of pay does not include:

(1) Tips.

(2) Commissions.

(3) Reimbursement for expenses incurred on the employer's behalf.

(4) Premium payments for overtime work or work on Saturdays, Sundays, holidays, or scheduled days off, if the premium rate is at least one and one-half (1-1/2) times the normal rate.

(5) Bonuses.

(6) Cash or other valuables in the nature of gifts on special occasions.

(7) Payments made pursuant to a bona fide profit-sharing plan or trust or bona fide thrift or savings plan.

(8) Contributions irrevocably made by an employer to a trustee or third person pursuant to a bona fide plan for providing old-age, retirement, life, accident, or health insurance or similar benefits for employees.

Section 2. That Section 40.210 of the above-entitled ordinance be amended to read as follows:

40.210. - Accrual of sick and safe time.

(a) Employees accrue a minimum of one (1) hour of sick and safe time for every thirty (30) hours worked up to a maximum of forty-eight (48) hours in a calendar ~~or fiscal~~ year. Employees may not accrue more than forty-eight (48) hours of accrued sick and safe time in a calendar ~~or fiscal~~ year unless the employer agrees to a higher amount. ~~Employers shall permit an employee to carry over accrued but unused sick and safe time into the following year.~~ Sick and safe time shall accrue only in hour-unit increments; there shall be no accrual of a fraction of an hour of sick and safe time.

(b) Exempt employees are deemed to work forty (40) hours in each work week for purposes of accruing sick and safe time, except that such an employee whose normal work week is less than forty (40) hours will accrue sick and safe time based upon the employee's normal work week.

(c) ~~Employers shall permit an employee to carry over accrued but unused sick and safe time into the following year.~~ The total amount of accrued but unused sick and safe time for an employee may not exceed eighty (80) hours at any time, unless an employer agrees to a higher amount.

(d) Sick and safe time under this chapter begins to accrue at the commencement of employment of the employee or this chapter's effective date, whichever is later.

(e) An employer may satisfy this section by providing at least forty-eight (48) hours of sick and safe time following the initial ninety (90) days of employment for use by the employee during the first calendar year, and providing at least eighty (80) hours of sick and safe time beginning each subsequent calendar year.

(f) The frequency with which an employer records sick and safe time accrual may be in a manner consistent with current payroll practices as defined by industry standards or existing employer policies, provided such practice or policy is no less frequent than a monthly basis.

Section 3. That Section 40.220 of the above-entitled ordinance be amended to read as follows:

40.220. - Use of accrued sick and safe time.

(a) Employees are entitled to use accrued sick and safe time beginning ninety (90) calendar days following commencement of their employment. After ninety (90) calendar days of employment, employees may use sick and safe time as it is accrued.

(b) An employee may use accrued sick and safe time for:

(1) An employee's:

- a. Mental or physical illness, injury, or health condition;
- b. Need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or
- c. Need for preventive medical or health care.

(2) The care of a family member:

- a. With a mental or physical illness, injury, or health condition;
- b. Who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or
- c. Who needs preventive medical or health care.

(3) An absence due to domestic abuse, sexual assault, or stalking of the employee or employee's family member, provided the absence is to:

- a. Seek medical attention related to physical or psychological injury or disability caused by domestic abuse, sexual assault, or stalking;
- b. Obtain services from a victim services organization;
- c. Obtain psychological or other counseling;
- d. Seek relocation due to domestic abuse, sexual assault, or stalking; or
- e. Take legal action, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from domestic abuse, sexual assault, or stalking.

(4) The closure of the employee's place of business by order of a public official to limit exposure to an infectious agent, biological toxin or hazardous material or other public health emergency.

(5) To accommodate the employee's need to care for a family member whose school or place of care has been closed by order of a public official to limit exposure to an infectious agent, biological toxin or hazardous material or other public health emergency.

(6) To accommodate the employee's need to care for a family member whose school or place of care has been closed due to inclement weather, loss of power, loss of heating, loss of water, or other unexpected closure.

(c) If the need for use is foreseeable, an employer may require advance notice of the intention to use sick and safe time, but in no case shall require more than seven (7) days' advance notice. If the need is not foreseeable, an employer may require an employee to give notice of the need for sick and safe time as soon as practicable.

(d) It is not a violation of this ordinance for an employer to require reasonable documentation that the sick and safe time is covered by paragraph (b) for absences of more than three (3) consecutive days.

(e) An employer may not require, as a condition of an employee's using sick and safe time, that the employee seek or find a replacement worker to cover the hours during which the employee uses sick and safe time.

(f) An employer must allow an employee to use sick and safe time in increments consistent with current payroll practices as defined by industry standards or existing employer policies, provided such increment is not more than four (4) hours.

(g) An employer with six (6) or more employees must compensate the employee at the same hourly rate with the same benefits as employee's regular rate of pay for the hours the employee was scheduled to earn work during the time the employee uses their accrued sick and safe time but in no case shall the employee be compensated at a rate less than the rate requirement in Minnesota Statutes, Section 177.24. ~~Employees are not entitled to compensation for lost tips or commissions and compensation~~ Compensation is only required for hours that an employee is scheduled to have worked.

(h) An employer with five (5) or less employees must allow employees unpaid use of accrued sick and safe time.

(i) A health care provider may only use sick and safe time when the health care provider has been scheduled to work. A health care provider has not been scheduled to work for shifts for which the health care provider chooses to call in and request a shift occurring within twenty-four (24) hours, or for shifts for which the employee has only been asked to remain available or on call, unless the health care provider has been asked to remain on the employer's premises.

(j) An employer may opt to satisfy the requirements of this Chapter for construction industry employees by:

(1) Paying at least the prevailing wage rate as defined by Minnesota Statutes, Section 177.42 and as calculated by the Minnesota Department of Labor and Industry; or

(2) Paying at least the required rate established in a registered apprenticeship agreement for apprentices registered with the Minnesota Department of Labor and Industry.

An employer electing this option shall be deemed in compliance with this chapter for construction industry employees who receive either at least the prevailing wage rate or the rate required in the applicable apprenticeship agreement regardless of whether the employees are working on private or public projects.

Section 4. That Section 40.270 of the above-entitled ordinance be amended to read as follows:

40.270. - Employer records.

(a) ~~In addition to the employment and payroll records required by Minnesota Rules, Chapter 3315, an~~
An employer must maintain accurate records for each employee showing: ~~the accrued sick and safe time~~
~~and the used sick and safe time for each day of the work week.~~

(1) For non-exempt employees, hours worked.

(2) Hours of leave available for sick and safe time purposes.

(3) Hours of leave used for sick and safe time purposes.

(b) The records required by this section must be retained for a period of not less than three (3) years in addition to the current calendar year.

(c) An employer must allow an employee to inspect records required by this section and relating to that employee at a reasonable time and place.

~~(d) An employer with employees who occasionally perform work in the city must track hours worked in the city by each employee performing work in the city.~~

~~(e)~~ (d) The department shall have access to the records required by both this section and Minnesota Statutes, Chapter 181, with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of this chapter, including, but not limited to, inspection and copying of books and records, interviewing employees and former employees, and investigating alleged violations of this chapter. Social Security numbers and employees' personal addresses shall not be a matter of public record.

~~(f)~~ (e) If an employer fails to maintain or retain adequate records or does not allow the department reasonable access to the records and an issue arises as to an alleged violation of an employee's rights under this chapter, it shall be presumed that the employer has violated this chapter, absent clear and convincing evidence otherwise.

Section 5. That Section 40.310 of the above-entitled ordinance be amended to read as follows:

40.310. - No effect on more generous sick and safe time policies.

(a) Nothing in this chapter shall be construed to discourage employers from adopting or retaining other leave policies, including accrued sick and safe time policies, that ~~meet or exceed, and do not otherwise conflict with, the minimum standards and requirements provided in this chapter~~ provide for greater accrual or use by employees of sick and safe time or that extends other protections to employees.

(b) Employers, ~~who provide their employees sick and safe time under a paid time off policy or other paid leave policy that meets or exceeds, and does not otherwise conflict, with the minimum standards and requirements provided in this chapter~~ is sufficient to meet the accrual requirements for sick and

safe time under section 40.210 and may be used by the employee for the same purposes and under the same conditions as sick and safe time under section 40.220, are not required to provide additional sick and safe time.

- (c) Nothing in this chapter shall be construed to prohibit an employer from establishing a policy whereby employees may donate unused accrued sick and safe time to another employee.
- (d) Nothing in this chapter shall be construed to prohibit an employer from advancing sick and safe time to an employee prior to accrual by such employee.