

House Bill 267

By: Representatives Alexander of the 66<sup>th</sup>, Metze of the 55<sup>th</sup>, Jackson of the 64<sup>th</sup>, Abrams of the 89<sup>th</sup>, Hugley of the 136<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial  
2 relations, so as to require all employers to implement paid sick leave for employees; to  
3 provide for definitions; to provide for exceptions; to specify purposes for which paid sick  
4 leave may be taken and the rate at which paid sick leave accrues; to require advance notice  
5 of intention to use sick leave under certain circumstances; to provide for verification of the  
6 need for sick time in certain circumstances; to provide for record keeping; to prohibit  
7 discrimination against an employee for inquiring about or using paid sick leave; to make a  
8 violation of an unlawful practice subject to the jurisdiction of the Department of Labor; to  
9 authorize a civil action for any violation; to provide a short title; to provide for related  
10 matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 This Act shall be known and may be referred to as "The Paid Sick Leave Act."

14 style="text-align:center">**SECTION 2.**

15 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,  
16 is amended by revising Chapter 11, which is reserved, as follows:

17 style="text-align:center">"CHAPTER 11

18 34-11-1.

19 As used in this chapter, the term:

20 (1) 'Employee' means an individual who renders personal services to an employer if the  
21 employer either pays or agrees to pay for personal services or permits the individual to  
22 perform personal services. Such term shall not include employees who receive paid sick  
23 leave under federal law.

24 (2) 'Employer' means any person that employs another person. Such term includes the  
 25 State of Georgia or a political subdivision of this state or any county, city, district,  
 26 authority, public corporation, or entity and any instrumentality thereof. Such term does  
 27 not include the federal government.

28 (3) 'Family member' means:

29 (A) The spouse of an employee;

30 (B) A biological, adoptive, or foster parent or child of the employee;

31 (C) A grandparent or grandchild of the employee;

32 (D) A parent-in-law of the employee;

33 (E) An individual for whom the employee was or is acting in loco parentis; or

34 (F) An individual related by blood or affinity to the employee whose close association  
 35 with the employee is the equivalent of a family relationship.

36 (4) 'Paid sick leave' means time off that is provided to an employee by an employer that  
 37 may be used for the purposes specified in Code Section 34-11-5 and is compensated at  
 38 the same rate of pay and with the same benefits, including, but not limited to, health care  
 39 benefits, as the employee earns from the employer at the time the employee uses the sick  
 40 time.

41 (5) 'Sick time' means an absence from work for a reason authorized under Code Section  
 42 34-11-5.

43 (6) 'Year' means a consecutive 12 month period. Such term includes, but is not limited  
 44 to, a calendar year, tax year, fiscal year, contract year, or the 12 month period beginning  
 45 on the anniversary of the date of employment of the employee. Reserved.

46 34-11-2.

47 (a) All employers shall implement a sick time policy that allows an employee to earn and  
 48 accrue at least 56 hours of paid sick leave per year. Paid sick leave shall accrue at the rate  
 49 of one hour of paid sick leave for every 30 hours worked.

50 (b) An employee shall begin to earn and accrue paid sick leave on the first day of  
 51 employment with an employer. Unused paid sick leave shall be carried over from one year  
 52 to a subsequent year; provided, however, that an employer may adopt a policy that limits  
 53 an employee from accruing or using more than 56 hours of paid sick leave in a year.

54 (c) An employer shall not be required to carry over unused paid sick leave if, by mutual  
 55 consent, the employer and the employee agree that the employee will be paid for all unused  
 56 paid sick leave at the end of the year in which the paid sick leave is accrued and the  
 57 employer credits the employee with an amount of paid sick leave that meets the  
 58 requirements of this Code section on the first day of the immediately subsequent year.

59 (d) Employees who are exempt from overtime requirements under the federal Fair Labor  
60 Standards Act of 1938, as amended, 29 U.S.C. Section 213(a)(1), shall be presumed to  
61 work 40 hours in each workweek for the purpose of accrual of paid sick leave unless the  
62 actual workweek of the employee is less than 40 hours, in which case paid sick leave shall  
63 accrue based on the actual workweek of the employee.

64 (e) The requirements of subsection (a) of this Code section shall not apply to an employer  
65 that has a sick time or time off policy that:

66 (1) Provides employees with sick time or time off that equals or exceeds the paid sick  
67 leave required by this Code section and that may be used by the employee under the same  
68 terms and conditions as and for the purposes specified in Code Section 34-11-5; and

69 (2) Specifies that the protections against retaliation specified in Code Section 34-11-10  
70 are applicable to the employees.

71 (f) Nothing in this chapter shall require an employer to compensate an employee for  
72 accrued unused paid sick leave upon the employee's termination, resignation, retirement,  
73 or other separation from employment.

74 (g) An employer shall not require an employee to:

75 (1) Search for or find a replacement worker as a condition of the employee's use of  
76 accrued paid sick leave; or

77 (2) Work an alternate shift to make up for the use of paid sick leave.

78 (h) Upon mutual consent by the employee and the employer, an employee may work  
79 additional hours or shifts during the same or next pay period without using accrued paid  
80 sick leave for the hours or shifts missed; provided, however, that the employer shall not  
81 require the employee to work such additional hours or shifts. If the employee works  
82 additional hours or shifts, the employer shall comply with any applicable federal or state  
83 laws regarding overtime pay.

84 (i) Accrued paid sick leave shall be retained by the employee if the employer sells,  
85 transfers, or otherwise assigns the business to another employer.

86 (j) An employer shall restore previously accrued unused paid sick leave to an employee  
87 who is rehired by that employer within 180 days of separation from employment with the  
88 employer. The employee shall be entitled to use previously accrued paid sick leave  
89 immediately upon reemployment.

90 (k) If an employee is transferred to a separate division, entity, or location of the employer  
91 but remains employed by that same employer, the employee shall be entitled to use all paid  
92 sick leave accrued while working at the former division, entity, or location of the employer  
93 and shall be entitled to retain or use all paid sick leave as provided by this chapter.

94 34-11-3.

95 (a) An employee shall be eligible to use paid sick leave beginning on the ninetieth calendar  
 96 day of employment with the employer and may use paid sick leave as it is accrued.

97 (b) An employer may authorize an employee to use accrued paid sick leave prior to the  
 98 ninetieth calendar day of employment.

99 (c) Employees shall be paid for accrued paid sick leave used at the regular rate of pay of  
 100 the employee.

101 (d) Accrued paid sick leave may be taken in one-hour increments or the smallest  
 102 increments that the payroll system of the employer uses to account for absences or use of  
 103 other time.

104 34-11-4.

105 Notwithstanding Code Section 34-11-3, an employee who is employed by an employer on  
 106 July 1, 2017, shall be eligible to use any accrued paid sick leave as it accrues on or after  
 107 July 1, 2017.

108 34-11-5.

109 Paid sick leave required under Code Section 34-11-2 may be taken by an employee:

110 (1) For an employee's mental or physical illness, injury, or health condition; need for  
 111 medical diagnosis, care, or treatment of a mental or physical illness, injury, or health  
 112 condition; or need for preventive medical care;

113 (2) For care of a family member who has a mental or physical illness, injury, or health  
 114 condition; who needs medical diagnosis, care, or treatment of a mental or physical illness,  
 115 injury, or health condition; or who needs preventive medical care;

116 (3) In the event of a public health emergency, including, but not limited to:

117 (A) Closure of the employee's place of business or closure of the school or place of  
 118 care of the employee's child by order of a public official due to a public health  
 119 emergency;

120 (B) Self-care or for care for a family member, if it has been determined by a federal or  
 121 state health department or agency or by a health care provider that the presence of the  
 122 employee or the family member of the employee in the community would jeopardize  
 123 the health of others; or

124 (C) Under any law, rule, or regulation that requires the employer to exclude the  
 125 employee from the workplace for health reasons; or

126 (4) In hourly increments or the smallest increments that the payroll system of the  
 127 employer uses to account for absences or use of other time.

128 34-11-6.

129 (a) Upon request of an employee with accrued paid sick leave available, an employer shall  
130 provide the employee with paid sick time. If possible, the employee shall include in the  
131 request the anticipated duration of the sick time requested.

132 (b) An employer may require the employee to comply with the employer's usual and  
133 customary notice and procedural requirements for absences or for requesting time off if  
134 those requirements do not interfere with the ability of the employee to use paid sick leave.

135 (c) If the need to use paid sick leave is foreseeable:

136 (1) The employer may require reasonable advance notice of the intention to use paid sick  
137 leave, not to exceed ten days prior to the date the sick time is to begin or as soon as  
138 otherwise practicable; and

139 (2) The employee shall make a reasonable attempt to schedule the use of paid sick leave  
140 in a manner that does not unduly disrupt the operations of the employer.

141 (d) If the need to use paid sick leave is unforeseeable, the employee shall provide notice  
142 to the employer as soon as practicable and shall comply generally with the employer's  
143 notice or procedural requirements for requesting or reporting other time off, if those  
144 requirements do not interfere with the ability of the employee to use paid sick leave.

145 34-11-7.

146 (a)(1) If an employee takes more than 24 consecutive hours of paid sick leave for a  
147 purpose described in Code Section 34-11-5, an employer may require the employee to  
148 provide verification from a health care provider of the need for the sick time or to provide  
149 other certification of the need for leave.

150 (2) If the need for sick time is foreseeable and an employee is required to provide notice  
151 under Code Section 34-11-6, the employer may require that verification or certification  
152 be provided before the sick time commences or as soon as otherwise practicable. If the  
153 employee commences paid sick leave without providing prior notice required by the  
154 employer under Code Section 34-11-6, medical verification or certification shall be  
155 provided to the employer within 15 calendar days after the employer requests the  
156 verification or certification or as soon as otherwise practicable.

157 (b) All costs for providing medical verification or certification required under this Code  
158 section shall be paid by the employer.

159 (c) The employer shall not require that the verification or certification required under this  
160 Code section explain the nature of the illness, injury, or health condition that necessitates  
161 the use of sick time, except as may be required by federal or state law.

162 34-11-8.

163 (a) An employer shall:

164 (1) Maintain records of the hours worked and the paid sick leave accrued and used by  
 165 each employee;

166 (2) Provide written notification at least quarterly to each employee of the amount of  
 167 accrued and unused paid sick leave available for use by the employee;

168 (3) Make records required to be maintained under this Code section available for  
 169 inspection by the Department of Labor upon request. An employer shall not  
 170 unreasonably delay or refuse to allow the Commissioner of Labor or his or her designee  
 171 to review the records required to be maintained under this Code section; and

172 (4) Maintain records required under this Code section for three years from the date any  
 173 paid sick leave accrues.

174 (b) Health information of an employee related to paid sick leave shall be kept confidential  
 175 and shall not be released without the permission of the employee.

176 (c)(1) An employer shall provide written notice of the requirements of this chapter to  
 177 each employee individually.

178 (2) The notice required under paragraph (1) of this subsection shall be in the language  
 179 the employer typically uses to communicate with the employee.

180 (d) The Department of Labor shall provide employers with a template that meets the  
 181 required notice provisions of this Code section.

182 34-11-9.

183 The provisions of this chapter establish minimum requirements pertaining to paid sick  
 184 leave and shall not be construed to preempt, limit, or otherwise affect the applicability of  
 185 any law, regulation, ordinance, requirement, policy, standard, or collective bargaining  
 186 agreement that provides for greater use of paid sick leave or unpaid sick time or the accrual  
 187 of more than 56 hours of paid sick leave in a year.

188 34-11-10.

189 It is an unlawful practice for an employer or any other person to:

190 (1) Deny, interfere with, restrain, or fail to pay for paid sick leave to which an employee  
 191 is entitled under this chapter;

192 (2) Retaliate or in any way discriminate against an employee with respect to any term or  
 193 condition of employment because the employee has:

194 (A) Inquired about any of the provisions of this chapter;

195 (B) Submitted a request for paid sick leave;

196 (C) Taken paid sick leave;

197 (D) Participated in any manner in an investigation, proceeding, or hearing related to  
 198 any of the provisions of this chapter; or  
 199 (E) Invoked any provision of this chapter; or  
 200 (3) Apply an absence control policy that includes sick time as an absence that may lead  
 201 to or result in an adverse employment action against the employee.

202 34-11-11.

203 The requirements of this chapter shall not apply to an employee:

204 (1) In the building and construction industry whose terms and conditions of employment  
 205 are covered by a collective bargaining agreement; or

206 (2) Who works as a longshoreman or stagehand and whose terms and conditions of  
 207 employment are covered by a collective bargaining agreement, if the agreement includes  
 208 a statement in clear and unambiguous terms that the paid sick leave requirements of this  
 209 chapter are expressly waived.

210 34-11-12.

211 (a) Any individual claiming to be aggrieved by an unlawful practice specified in Code  
 212 Section 34-11-10 may file a civil action in a court of competent jurisdiction. In any action  
 213 under this Code section, the court may order injunctive relief and any other equitable relief  
 214 that may be appropriate, including, but not limited to, reinstatement or the hiring of  
 215 employees with or without back pay. In any action under this Code section, the court may  
 216 allow the prevailing party costs and reasonable attorney fees.

217 (b) The court may award, in addition to the relief authorized under subsection (a) of this  
 218 Code section, compensatory damages or \$200.00, whichever is greater, and punitive  
 219 damages."

220 **SECTION 3.**

221 All laws and parts of laws in conflict with this Act are repealed.