Sick and Safe Leave Ordinance FAQs

1. Is accrued sick leave payable upon resignation, firing, or retirement? If rehired, would the employer need to reload the accrued hours even if they were paid out upon separation?
   An employer is not required to pay an employee upon their separation from the company. However, if an employer chooses to pay out the balance of sick and safe leave to an employee upon separation, the employer is not required to reinstate leave if the employee is rehired. If an employer rehires an employee within six months of their separation and chooses not to pay out leave, they will be required to reinstate the same amount of leave the employee had prior to separating from the company.

2. Can there be different policies for different types of employees? For example, hourly workers must accrue sick and safe leave (SSL) and salaried employees have their SSL front loaded?
   An employer may have separate methods for providing sick and safe leave for different types of employees as long as all employees are allowed to accrue up to or are frontloaded the baseline amount of fifty six hours of leave.

3. Does the ordinance apply to municipalities such as Leon Valley, Balcones Heights, Alamo Heights, etc.?
   The ordinance applies to all employees who work for pay within the city limits of San Antonio, regardless of where their employer’s business address is located. Employees working within other municipalities are not covered by the ordinance.

4. Can an employer establish an eligibility period for use of sick and safe leave?
   Accrual of sick and safe leave will begin upon hiring. However, an employer may establish an eligibility (probationary) period for the use of sick and safe leave that may not exceed 90 days from the start of employment.

5. If an employer offers a Paid Time Off (PTO) plan or other sick/vacation leave that meets the number of hours mentioned in the ordinance, does that satisfy the requirements?
   Employers who have PTO/vacation/additional leave policies that meet the hour requirements do not have to provide additional sick and safe leave hours as long as employees can use it under the qualifying conditions and circumstances indicated in the ordinance.

6. How is a family member defined in the SSL ordinance?
   A family member is defined as:
   1. Spouses, domestic partners, and both different and same sex significant others
   2. Any other family member within the second degree of consanguinity of affinity
   3. A member of the covered employee’s household
   4. A minor’s parents, regardless of the sex or gender of either parent

7. If an employee carries over hours below the minimum cap, can they still accrue hours the next year?
   If an employer requires employees to accrue sick and safe leave and the employee has leave below the baseline amount of fifty six hours at the end of the year, these hours will be carried over to the next year. The employee will then begin to accrue sick and safe leave up to fifty six hours.
8. What is the timeline to file a complaint?
   A complaint against an employer may be filed within one year of the date of the violation.

9. What is considered a timely request to use SSL?
   An employee may request sick and safe leave from an employer at any point prior to the start of a shift or during a shift, as long as its use fits within the qualifying circumstances indicated in the ordinance.

10. In the case an employee is out for more than three consecutive days, but has not seen a doctor or sought any other related services, what type of verification can the employer require?
    An employee will choose what documentation to provide in responding to a request for verification. Verification may include a written statement from the employee that the employee took either “sick” or “safe” leave provided by the ordinance.

11. Is it enough to provide updated notices of available and used overall leave to employees or does it need to specifically show time that was designated as sick and safe leave?
    If an employer chooses to separate sick and safe leave from other types of leave offered, then available and used sick and safe leave must be designated as such. However, if an employer allows PTO/vacation/other forms of leave to be used as sick and safe leave, then used and available leave does not need to be separated for record keeping requirements.

12. How is PSL calculated for employees that are paid in non-standard ways such as employees that are paid a flat rate per day, commissioned employees, tipped employees, employees that are hired on an as needed basis, employees that are paid per project, etc.?
    Employees will earn sick and safe leave based on hours worked. Employees will earn one hour of leave for every thirty hours worked. The method of how hours are tracked for each employee will be dependent on company HR practices and policies.

13. Exempt/salaried employees – how are SSL hours calculated?
    Sick and safe leave will still be calculated the same for exempt and salaried employees as it is for other employee types—they earn one hour of sick and safe leave for every thirty hours worked. A full time work week is presumed to be forty hours. Exempt and salaried employees will then earn approximately 1.33 hours of sick and safe leave per week.

14. If the ordinance isn’t enforced until April 1, 2020, are employers required to immediately provide what should have been accumulated from August 1, 2019 in order to not be subjected to any fines? Or can accrual/frontloading of hours for each employee start on April 1?
    Accrual or front loading of sick and safe leave hours must begin on the implementation date of December 1, 2019. However, penalties will not be assessed until April 1, 2020 except in cases of retaliation against an employee.

15. How do we handle an employee who displays a pattern of misuse of sick and safe leave?
    Employers suspecting abuse of sick and safe leave, including patterns of use, may request verification of the employee’s need for leave, consistent with limitations and parameters established by state and federal laws, or other source. Indications of patterns of use may include but are not limited to repeated use of unscheduled sick time or adjacent to weekends, holidays, vacation, pay day, on days when leave has been denied, or when mandatory shifts are scheduled. An employer must abide by all existing federal and state laws regarding discrimination and employment practices.