

House Bill 824

By: Representatives Alexander of the 66th, Bruce of the 61st, Carter of the 92nd, Wilkerson of the 38th, Hugley of the 136th, 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 with whom the employee was or is in a relationship of in loco
 34 parentis; or

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

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

42 (5) 'Sick time' means an absence from work for a reason authorized under Code Section
 43 34-11-5.

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

47 34-11-2.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

95 34-11-3.96 (a) An employee shall be eligible to use paid sick leave beginning on the ninetieth calendar
97 day of employment with the employer and may use paid sick leave as it is accrued.98 (b) An employer may authorize an employee to use accrued paid sick leave prior to the
99 ninetieth calendar day of employment.100 (c) Employees shall be paid for accrued paid sick leave used at the regular rate of pay of
101 the employee.102 (d) Accrued paid sick leave may be taken in one-hour increments or the smallest
103 increments that the payroll system of the employer uses to account for absences or use of
104 other time.105 34-11-4.106 Notwithstanding Code Section 34-11-3, an employee who is employed by an employer on
107 July 1, 2016, shall be eligible to use any accrued paid sick leave as it accrues on or after
108 July 1, 2016.109 34-11-5.110 (a) Paid sick leave required under Code Section 34-11-2 may be taken by an employee:111 (1) For an employee's mental or physical illness, injury, or health condition; need for
112 medical diagnosis, care, or treatment of a mental or physical illness, injury, or health
113 condition; or need for preventive medical care;114 (2) For care of a family member who has a mental or physical illness, injury, or health
115 condition; who needs medical diagnosis, care, or treatment of a mental or physical illness,
116 injury, or health condition; or who needs preventive medical care;117 (3) In the event of a public health emergency, including, but not limited to:118 (A) Closure of the employee's place of business or closure of the school or place of
119 care of the employee's child by order of a public official due to a public health
120 emergency;121 (B) Self-care or for care for a family member, if it has been determined by a federal or
122 state health department or agency or by a health care provider that the presence of the
123 employee or the family member of the employee in the community would jeopardize
124 the health of others; or125 (C) Under any law, rule, or regulation that requires the employer to exclude the
126 employee from the workplace for health reasons; or127 (4) In hourly increments or the smallest increments that the payroll system of the
128 employer uses to account for absences or use of other time.

129 34-11-6.

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

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

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

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

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

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

146 34-11-7.

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

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

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

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

163 34-11-8.

164 (a) An employer shall:

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

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

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

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

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

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

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

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

183 34-11-9.

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

189 34-11-10.

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

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

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

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

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

197 (C) Taken paid sick leave;

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

203 34-11-11.

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

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

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

211 34-11-12.

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

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

221 **SECTION 3.**

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