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Title: A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to the provision of sick time earned by employees.

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Indexes:

Attachments: 1. Int. No. 97 - 3/25/10, 2. Committee Report 5/11/10, 3. Hearing Testimony 5/11/10, 4. Hearing Transcript 5/11/10, 5. Proposed Int. No. 97-A - 3/22/13, 6. Committee Report 3/22/13, 7. NYCC Economic Analysis 3/22/13, 8. Hearing Testimony 3/22/13, 9. Hearing Testimony 3/22/13 (Con't), 10. Hearing Testimony 3/22/13 (Con't), 11. Hearing Transcript 3/22/13, 12. Committee Report 5/6/13, 13. Hearing Transcript 5/6/13, 14. Fiscal Impact Statement, 15. Hearing Transcript - Stated Meeting 5-8-13, 16. Disapproval Stamped Page, 17. Mayor's Veto Message, 18. Committee Report 6/26/13, 19. Hearing Transcript 6/26/13, 20. Hearing Transcript - Stated Meeting 6-26-13, 21. Letter to Mayor, 22. Local Law 46

Date	Ver.	Action By	Action	Result
3/25/2010	*	City Council	Introduced by Council	
3/25/2010	*	City Council	Referred to Comm by Council	
5/11/2010	*	Committee on Civil Service and Labor	Hearing Held by Committee	
5/11/2010	*	Committee on Civil Service and Labor	Laid Over by Committee	
3/22/2013	*	Committee on Civil Service and Labor	Hearing Held by Committee	
3/22/2013	*	Committee on Civil Service and Labor	Amendment Proposed by Comm	
3/22/2013	*	Committee on Civil Service and Labor	Laid Over by Committee	
5/6/2013	*	Committee on Civil Service and Labor	Hearing Held by Committee	
5/6/2013	*	Committee on Civil Service and Labor	Amendment Proposed by Comm	
5/6/2013	*	Committee on Civil Service and Labor	Amended by Committee	
5/6/2013	A	Committee on Civil Service and Labor	Approved by Committee	Pass

5/8/2013	A	City Council	Approved by Council	Pass
5/8/2013	A	City Council	Sent to Mayor by Council	
6/6/2013	A	Mayor	Vetoed by Mayor	
6/26/2013	A	Committee on Civil Service and Labor	Hearing Held by Committee	
6/26/2013	A	Committee on Civil Service and Labor	Approved by Committee	Pass
6/26/2013	A	City Council	Overridden by Council	Pass

Int. No. 97-A

By Council Members Brewer, Lappin, Mendez, Palma, Gonzalez, Ferreras, Koppell, Recchia, Gentile, Mark-Viverito, Rodriguez, James, Williams, Levin, Rose, Jackson, Chin, Barron, Ulrich, Mealy, Nelson, Vann, Crowley, Foster, Lander, Van Bramer, Dromm, Garodnick, Rivera, Cabrera, Eugene, Koslowitz, Vacca, Weprin, Reyna, Arroyo, King, Richards, Wills, Gennaro, Dickens, Comrie and the Public Advocate (Mr. de Blasio)

A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to the provision of sick time earned by employees.

Be it enacted by the Council as follows:

Section 1. Legislative intent. The City Council finds that nearly every worker at some time during each year will need time off from work to take care of his or her health needs or the health needs of family members. Providing the right to earned sick time will therefore have a positive effect on the public health of the City and lessen the spread of and exposure to diseases. The Council further finds that supporting a healthy workforce will foster greater employee retention and productivity, and recognizes that responsible businesses that already have policies that allow time off that amounts to at least the minimum requirements under this law, and that can be taken for the same reasons and under the same conditions as enumerated in this legislation, will not be required to provide additional sick time. Providing sick time to workers at a time when the economy is improving, and ensuring that workers' jobs are protected when they need to take a sick day, strikes the right balance and will result in a more prosperous, safe and healthy City.

§ 2. Section 2203 of the New York city charter is hereby amended by adding a new subdivision e, relettering current subdivisions e through g as subdivisions f through h, and amending relettered subdivisions f and h to read as follows:

(e) The commissioner shall have all powers as set forth in chapter 8 of title 20 of the administrative

code relating to the receipt, investigation, and resolution of complaints thereunder regarding earned sick time.

[e](f) The commissioner, in the performance of said functions, including those functions pursuant to subdivision e of this section, shall be authorized to hold public and private hearings, administer oaths, take testimony, serve subpoenas, receive evidence, and to receive, administer, pay over and distribute monies collected in and as a result of actions brought for violations of laws relating to deceptive or unconscionable trade practices, or of related laws, and to promulgate, amend and modify rules and regulations necessary to carry out the powers and duties of the department.

[(f)] (g) The commissioner shall exercise the powers of a commissioner of public markets under the agriculture and markets law with respect to open air markets.

[(g)] (h) (1) Notwithstanding any inconsistent provision of law, the department shall be authorized, upon due notice and hearing, to impose civil penalties for the violation of any laws or rules the enforcement of which is within the jurisdiction of the department pursuant to this charter, the administrative code or any other general, special or local law. The department shall have the power to render decisions and orders and to impose civil penalties for all such violations, and to order equitable relief for and payment of monetary damages in connection with enforcement of chapter 8 of title 20 of the administrative code. Except to the extent that dollar limits are otherwise specifically provided, such civil penalties shall not exceed five hundred dollars for each violation. All proceedings authorized pursuant to this subdivision shall be conducted in accordance with rules promulgated by the commissioner. The remedies and penalties provided for in this subdivision shall be in addition to any other remedies or penalties provided for the enforcement of such provisions under any other law including, but not limited to, civil or criminal actions or proceedings.

(2) All such proceedings shall be commenced by the service of a notice of violation. The commissioner shall prescribe the form and wording of notices of violation. The notice of violation or copy thereof when filled in and served shall constitute notice of the violation charged, and, if sworn to or affirmed, shall be prima facie evidence of the facts contained therein.

(3) For the purposes of this subdivision, no act or practice shall be deemed a deceptive trade practice unless it has been declared a deceptive trade practice and described with reasonable particularity in a local law or in a rule or regulation promulgated by the commissioner.

(4) Notwithstanding any other inconsistent provision of law, powers conferred upon the department by this subdivision may be exercised by the office of administrative trials and hearings consistent with orders of the mayor issued in accordance with subdivisions two and three of section one thousand forty-eight of this charter.

§ 3. Title 20 of the administrative code of the city of New York is amended by adding a new chapter 8 to read as follows:

CHAPTER 8

EARNED SICK TIME ACT

§ 20-911 **Short title.**

§ 20-912 **Definitions.**

§ 20-913 **Right to sick time; accrual.**

§ 20-914 **Use of sick time.**

§ 20-915 **Changing schedule.**

§ 20-916 **Collective bargaining agreements.**

§ 20-917 **Public disasters.**

§ 20-918 **Retaliation and interference prohibited.**

§ 20-919 **Notice of rights.**

§ 20-920 **Employer records.**

§ 20-921 **Confidentiality and nondisclosure.**

§ 20-922 **Encouragement of more generous policies; no effect on more generous policies**

§ 20-923 **Other legal requirements.**

§ 20-924 **Enforcement and penalties.**

§ 20-911 **Short title.** This chapter shall be known and may be cited as the “Earned Sick Time Act.”

§ 20-912 **Definitions.** When used in this chapter, the following terms shall be defined as follows:

a. “Calendar year” shall mean a regular and consecutive twelve month period, as determined by an employer.

b. “Chain business” shall mean any employer that is part of a group of establishments that share a common owner or principal who owns at least thirty percent of each establishment where such establishments (i) engage in the same business or (ii) operate pursuant to franchise agreements with the same franchisor as defined in general business law section 681; provided that the total number of employees of all such establishments in such group is at least fifteen.

c. “Child” shall mean a biological, adopted or foster child, a legal ward, or a child of an employee standing in loco parentis.

d. “Domestic partner” shall mean any person who has a registered domestic partnership pursuant to section 3-240 of the code, a domestic partnership registered in accordance with executive order number 123, dated August 7, 1989, or a domestic partnership registered in accordance with executive order number 48, dated January 7, 1993.

e. “Domestic worker” shall mean any “domestic worker” as defined in section 2(16) of the labor law who is employed for hire within the city of New York for more than eighty hours in a calendar year who performs work on a full-time or part-time basis.

f. “Employee” shall mean any “employee” as defined in section 190(2) of the labor law who is employed for hire within the city of New York for more than eighty hours in a calendar year who performs work on a full-time or part-time basis, including work performed in a transitional jobs program pursuant to section 336-f of the social services law, but not including work performed as a participant in a work experience program pursuant to section 336-c of the social services law, and not including those who are employed by (i)

the United States government; (ii) the state of New York, including any office, department, independent agency, authority, institution, association, society or other body of the state including the legislature and the judiciary; or (iii) the city of New York or any local government, municipality or county or any entity governed by general municipal law section 92 or county law section 207.

g. “Employer” shall mean any “employer” as defined in section 190(3) of the labor law, but not including (i) the United States government; (ii) the state of New York, including any office, department, independent agency, authority, institution, association, society or other body of the state including the legislature and the judiciary; (iii) the city of New York or any local government, municipality or county or any entity governed by general municipal law section 92 or county law section 207; or (iv) any employer that is a business establishment classified in section 31, 32 or 33 of the North American Industry Classification System. In determining the number of employees performing work for an employer for compensation during a given week, all employees performing work for compensation on a full-time, part-time or temporary basis shall be counted, provided that where the number of employees who work for an employer for compensation per week fluctuates, business size may be determined for the current calendar year based upon the average number of employees who worked for compensation per week during the preceding calendar year, and provided further that in determining the number of employees performing work for an employer that is a chain business, the total number of employees in that group of establishments shall be counted.

h. “Family member” shall mean an employee’s child, spouse, domestic partner or parent, or the child or parent of an employee’s spouse or domestic partner.

i. “Health care provider” shall mean any person licensed under federal or New York state law to provide medical or emergency services, including, but not limited to, doctors, nurses and emergency room personnel.

j. “Hourly professional employee” shall mean any individual (i) who is professionally licensed by the New York state education department, office of professions, under the direction of the New York state board of regents under education law sections 6732, 7902 or 8202, (ii) who calls in for work assignments at will

determining his or her own work schedule with the ability to reject or accept any assignment referred to them and (iii) who is paid an average hourly wage which is at least four times the federal minimum wage for hours worked during the calendar year.

k. “Paid sick time” shall mean time that is provided by an employer to an employee that can be used for the purposes described in section 20-914 of this chapter and is compensated at the same rate as the employee earns from his or her employment at the time the employee uses such time, except that an employee who volunteers or agrees to work hours in addition to his or her normal schedule will not receive more in paid sick time compensation than his or her regular hourly wage if such employee is not able to work the hours for which he or she has volunteered or agreed even if the reason for such inability to work is one of the reasons in section 20-914 of this chapter. In no case shall an employer be required to pay more to an employee for paid sick time than the employee’s regular rate of pay at the time the employee uses such paid sick time, except that in no case shall the paid sick time hourly rate be less than the hourly rate provided in section 652(1) of the labor law.

l. “Parent” shall mean a biological, foster, step- or adoptive parent, or a legal guardian of an employee, or a person who stood in loco parentis when the employee was a minor child.

m. “Public disaster” shall mean an event such as fire, explosion, terrorist attack, severe weather conditions or other catastrophe that is declared a public emergency or disaster by the president of the United States, the governor of the state of New York or the mayor of the city of New York.

n. “Public health emergency” shall mean a declaration made by the commissioner of health and mental hygiene pursuant to section 3.01(d) of the New York city health code or by the mayor pursuant to section 24 of the executive law.

o. “Public service commission” shall mean the public service commission established by section 4 of the public service law.

p. “Retaliation” shall mean any threat, discipline, discharge, demotion, suspension, reduction in employee hours, or any other adverse employment action against any employee for exercising or attempting to

exercise any right guaranteed under this chapter.

q. “Sick time” shall mean time that is provided by an employer to an employee that can be used for the purposes described in section 20-914 of this chapter, whether or not compensation for that time is required pursuant to this chapter.

r. “Spouse” shall mean a person to whom an employee is legally married under the laws of the state of New York.

§ 20-913 **Right to sick time; accrual.** a. All employees have the right to sick time pursuant to this chapter.

1. All employers that employ fifteen or more employees and all employers of one or more domestic workers shall provide paid sick time to their employees in accordance with the provisions of this chapter and the schedule set forth in section 7 of the local law which enacted this section.

2. All employees not entitled to paid sick time pursuant to this chapter shall be entitled to unpaid sick time in accordance with the provisions of this chapter and the schedule set forth in section 7 of the local law which enacted this section.

3. All employers that employ fifteen to nineteen employees, and all employers of one or more domestic workers, shall provide unpaid sick time in accordance with the provisions of this chapter and the schedule set forth in section 7 of the local law which enacted this section during any period in which, pursuant to the schedule set forth in section 7 of the local law which enacted this section, such employers are not required to provide paid sick time but employers that employ twenty or more employees are required to provide paid sick time.

b. All employers shall provide a minimum of one hour of sick time for every thirty hours worked by an employee, other than a domestic worker who shall accrue sick time pursuant to paragraph 2 of subdivision d of this section. Employers shall not be required under this chapter to provide more than forty hours of sick time for an employee in a calendar year. For purposes of this subdivision, any paid days of rest to which a domestic

worker is entitled pursuant to section 161(1) of the labor law shall count toward such forty hours. Nothing in this chapter shall be construed to discourage or prohibit an employer from allowing the accrual of sick time at a faster rate or use of sick time at an earlier date than this chapter requires.

c. An employer required to provide paid sick time pursuant to this chapter who provides an employee with an amount of paid leave, including paid time off, paid vacation, paid personal days or paid days of rest required to be compensated pursuant to section 161(1) of the labor law, sufficient to meet the requirements of this section and who allows such paid leave to be used for the same purposes and under the same conditions as sick time required pursuant to this chapter, is not required to provide additional paid sick time for such employee whether or not such employee chooses to use such leave for the purposes included in subdivision a of section 20-914 of this chapter. An employer required to provide unpaid sick time pursuant to this chapter who provides an employee with an amount of unpaid or paid leave, including unpaid or paid time off, unpaid or paid vacation, or unpaid or paid personal days, sufficient to meet the requirements of this section and who allows such leave to be used for the same purposes and under the same conditions as sick time required pursuant to this chapter, is not required to provide additional unpaid sick time for such employee whether or not such employee chooses to use such leave for the purposes set forth in subdivision a of section 20-914 of this chapter.

d. 1. For an employee other than a domestic worker, sick time as provided pursuant to this chapter shall begin to accrue at the commencement of employment or on the effective date of this local law, whichever is later, and an employee shall be entitled to begin using sick time on the one hundred twentieth calendar day following commencement of his or her employment or on the one hundred twentieth calendar day following the effective date of this local law, whichever is later. After the one hundred twentieth calendar day of employment or after the one hundred twentieth calendar day following the effective date of this local law, whichever is later, such employee may use sick time as it is accrued.

2. In addition to the paid day or days of rest to which a domestic worker is entitled pursuant to section 161(1) of the labor law, such domestic worker shall also be entitled to two days of paid sick time as of the date

that such domestic worker is entitled to such paid day or days of rest and annually thereafter, provided that notwithstanding any provision of this chapter to the contrary, such two days of paid sick time shall be calculated in the same manner as the paid day or days of rest are calculated pursuant to the provisions of section 161(1) of the labor law.

e. Employees who are not covered by the overtime requirements of New York state law or regulations, including the wage orders promulgated by the New York commissioner of labor pursuant to article 19 or 19-A of the labor law, shall be assumed to work forty hours in each work week for purposes of sick time accrual unless their regular work week is less than forty hours, in which case sick time accrues based upon that regular work week.

f. The provisions of this chapter do not apply to (i) work study programs under 42 U.S.C. section 2753, (ii) employees for the hours worked and compensated by or through qualified scholarships as defined in 26 U.S.C. section 117, (iii) independent contractors who do not meet the definition of employee under section 190 (2) of the labor law, and (iv) hourly professional employees.

g. Employees shall determine how much earned sick time they need to use, provided that employers may set a reasonable minimum increment for the use of sick time not to exceed four hours per day.

h. Except for domestic workers, unused sick time as provided pursuant to this chapter shall be carried over to the following calendar year; provided that no employer shall be required to (i) allow the use of more than forty hours of sick time in a calendar year or (ii) carry over unused paid sick time if the employee is paid for any unused sick time at the end of the calendar year in which such time is accrued and the employer provides the employee with an amount of paid sick time that meets or exceeds the requirements of this chapter for such employee for the immediately subsequent calendar year on the first day of the immediately subsequent calendar year.

i. Nothing in this chapter shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement, or other separation from

employment for accrued sick time that has not been used.

j. If an employee is transferred to a separate division, entity or location in the city of New York, but remains employed by the same employer, such employee is entitled to all sick time accrued at the prior division, entity or location and is entitled to retain or use all sick time as provided pursuant to the provisions of this chapter. When there is a separation from employment and the employee is rehired within six months of separation by the same employer, previously accrued sick time that was not used shall be reinstated and such employee shall be entitled to use such accrued sick time at any time after such employee is rehired, provided that no employer shall be required to reinstate such sick time to the extent the employee was paid for unused accrued sick time prior to separation and the employee agreed to accept such pay for such unused sick time.

§ 20-914 Use of sick time. a. An employee shall be entitled to use sick time for absence from work due to:

1. such employee's mental or physical illness, injury or health condition or need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition or need for preventive medical care;

or

2. care of a family member who needs medical diagnosis, care or treatment of a mental or physical illness, injury or health condition or who needs preventive medical care; or

3. closure of such employee's place of business by order of a public official due to a public health emergency or such employee's need to care for a child whose school or childcare provider has been closed by order of a public official due to a public health emergency.

b. An employer may require reasonable notice of the need to use sick time. Where such need is foreseeable, an employer may require reasonable advance notice of the intention to use such sick time, not to exceed seven days prior to the date such sick time is to begin. Where such need is not foreseeable, an employer may require an employee to provide notice of the need for the use of sick time as soon as practicable.

c. For an absence of more than three consecutive work days, an employer may require reasonable

documentation that the use of sick time was authorized by subdivision a of this section. For sick time used pursuant to paragraphs 1 and 2 of subdivision a of this section, documentation signed by a licensed health care provider indicating the need for the amount of sick time taken shall be considered reasonable documentation and an employer shall not require that such documentation specify the nature of the employee's or the employee's family member's injury, illness or condition, except as required by law.

d. Nothing herein shall prevent an employer from requiring an employee to provide written confirmation that an employee used sick time pursuant to this section.

e. An employer shall not require an employee, as a condition of taking sick time, to search for or find a replacement worker to cover the hours during which such employee is utilizing sick time.

f. Nothing in this chapter shall be construed to prohibit an employer from taking disciplinary action, up to and including termination, against a worker who uses sick time provided pursuant to this chapter for purposes other than those described in this section.

§ 20-915 **Changing schedule.** Upon mutual consent of the employee and the employer, an employee who is absent for a reason listed in subdivision a of section 20-914 of this chapter may work additional hours during the immediately preceding seven days if the absence was foreseeable or within the immediately subsequent seven days from that absence without using sick time to make up for the original hours for which such employee was absent, provided that an adjunct professor who is an employee at an institute of higher education may work such additional hours at any time during the academic term. An employer shall not require such employee to work additional hours to make up for the original hours for which such employee was absent or to search for or find a replacement employee to cover the hours during which the employee is absent pursuant to this section. If such employee works additional hours, and such hours are fewer than the number of hours such employee was originally scheduled to work, then such employee shall be able to use sick time provided pursuant to this chapter for the difference. Should the employee work additional hours, the employer shall comply with any applicable federal, state or local labor laws.

§ 20-916 **Collective bargaining agreements.** a. The provisions of this chapter shall not apply to any employee covered by a valid collective bargaining agreement if (i) such provisions are expressly waived in such collective bargaining agreement and (ii) such agreement provides for a comparable benefit for the employees covered by such agreement in the form of paid days off; such paid days off shall be in the form of leave, compensation, other employee benefits, or some combination thereof. Comparable benefits shall include, but are not limited to, vacation time, personal time, sick time, and holiday and Sunday time pay at premium rates.

b. Notwithstanding subdivision a of this section, the provisions of this chapter shall not apply to any employee in the construction or grocery industry covered by a valid collective bargaining agreement if such provisions are expressly waived in such collective bargaining agreement.

§ 20-917 **Public disasters.** In the event of a public disaster, the mayor may, for the length of such disaster, suspend the provisions of this chapter for businesses, corporations or other entities regulated by the public service commission.

§ 20-918 **Retaliation and interference prohibited.** No employer shall engage in retaliation or threaten retaliation against an employee for exercising or attempting to exercise any right provided pursuant to this chapter, or interfere with any investigation, proceeding or hearing pursuant to this chapter. The protections of this chapter shall apply to any person who mistakenly but in good faith alleges a violation of this chapter. Rights under this chapter shall include, but not be limited to, the right to request and use sick time, file a complaint for alleged violations of this chapter with the department, communicate with any person about any violation of this chapter, participate in any administrative or judicial action regarding an alleged violation of this chapter, or inform any person of his or her potential rights under this chapter.

§ 20-919 **Notice of rights.** a. An employer shall provide an employee at the commencement of employment with written notice of such employee's right to sick time pursuant to this chapter, including the accrual and use of sick time, the calendar year of the employer, and the right to be free from retaliation and to

bring a complaint to the department. Such notice shall be in English and the primary language spoken by that employee, provided that the department has made available a translation of such notice in such language pursuant to subdivision b of this section. Such notice may also be conspicuously posted at an employer's place of business in an area accessible to employees.

b. The department shall create and make available notices that contain the information required pursuant to subdivision a of this section and such notices shall allow for the employer to fill in applicable dates for such employer's calendar year. Such notices shall be posted in a downloadable format on the department's website in Chinese, English, French-Creole, Italian, Korean, Russian, Spanish and any other language deemed appropriate by the department.

c. Any person or entity that willfully violates the notice requirements of this section shall be subject to a civil fine in an amount not to exceed fifty dollars for each employee who was not given appropriate notice pursuant to this section.

§ 20-920 **Employer records.** Employers shall retain records documenting such employer's compliance with the requirements of this chapter for a period of two years unless otherwise required pursuant to any other law, rule or regulation, and shall allow the department to access such records, with appropriate notice and at a mutually agreeable time, in furtherance of an investigation conducted pursuant to this chapter.

§ 20-921 **Confidentiality and nondisclosure.** No person or entity may require the disclosure of details relating to an employee's or his or her family member's medical condition as a condition of providing sick time under this chapter. Health information about an employee or an employee's family member obtained solely for the purposes of utilizing sick time pursuant to this chapter shall be treated as confidential and shall not be disclosed except by the affected employee, with the permission of the affected employee or as required by law.

§ 20-922 **Encouragement of more generous policies; no effect on more generous policies.** a. Nothing in this chapter shall be construed to discourage or prohibit the adoption or retention of a sick time policy more generous than that which is required herein.

b. Nothing in this chapter shall be construed as diminishing the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan or other agreement providing more generous sick time to an employee than required herein.

c. Nothing in this chapter shall be construed as diminishing the rights of public employees regarding sick time as provided pursuant to federal, state or city law.

§ 20-923 Other legal requirements. a. This chapter provides minimum requirements pertaining to sick time and shall not be construed to preempt, limit or otherwise affect the applicability of any other law, regulation, rule, requirement, policy or standard that provides for greater accrual or use by employees of sick leave or time, whether paid or unpaid, or that extends other protections to employees.

b. Nothing in this chapter shall be construed as creating or imposing any requirement in conflict with any federal or state law, rule or regulation, nor shall anything in this chapter be construed to diminish or impair the rights of an employee or employer under any valid collective bargaining agreement.

§ 20-924 Enforcement and penalties. a. The department shall enforce the provisions of this chapter. In effectuating such enforcement, the department shall establish a system utilizing multiple means of communication to receive complaints regarding non-compliance with this chapter and investigate complaints received by the department in a timely manner.

b. Any person alleging a violation of this chapter shall have the right to file a complaint with the department within 270 days of the date the person knew or should have known of the alleged violation. The department shall maintain confidential the identity of any complainant unless disclosure of such complainant's identity is necessary for resolution of the investigation or otherwise required by law. The department shall, to the extent practicable, notify such complainant that the department will be disclosing his or her identity prior to such disclosure.

c. Upon receiving a complaint alleging a violation of this chapter, the department shall investigate such complaint and attempt to resolve it through mediation. The department shall keep complainants reasonably

notified regarding the status of their complaint and any resultant investigation. If the department believes that a violation has occurred, it shall issue to the offending person or entity a notice of violation. The commissioner shall prescribe the form and wording of such notices of violation. The notice of violation shall be returnable to the administrative tribunal authorized to adjudicate violations of this chapter.

d. The department shall have the power to impose penalties provided for in this chapter and to grant an employee or former employee all appropriate relief. Such relief shall include: (i) for each instance of sick time taken by an employee but unlawfully not compensated by the employer: three times the wages that should have been paid under this chapter or two hundred fifty dollars, whichever is greater; (ii) for each instance of sick time requested by an employee but unlawfully denied by the employer and not taken by the employee or unlawfully conditioned upon searching for or finding a replacement worker, or for each instance an employer requires an employee to work additional hours without the mutual consent of such employer and employee in violation of section 20-915 of this chapter to make up for the original hours during which such employee is absent pursuant to this chapter: five hundred dollars; (iii) for each instance of unlawful retaliation not including discharge from employment: full compensation including wages and benefits lost, five hundred dollars and equitable relief as appropriate; and (iv) for each instance of unlawful discharge from employment: full compensation including wages and benefits lost, two thousand five hundred dollars and equitable relief, including reinstatement, as appropriate.

e. Any entity or person found to be in violation of the provisions of sections 20-913, 20-914, 20-915 or 20-918 of this chapter shall be liable for a civil penalty payable to the city not to exceed five hundred dollars for the first violation and, for subsequent violations that occur within two years of any previous violation, not to exceed seven hundred and fifty dollars for the second violation and not to exceed one thousand dollars for each succeeding violation.

f. The department shall annually report on its website the number and nature of the complaints received pursuant to this chapter, the results of investigations undertaken pursuant to this chapter, including the number

of complaints not substantiated and the number of notices of violations issued, the number and nature of adjudications pursuant to this chapter, and the average time for a complaint to be resolved pursuant to this chapter.

§ 4. Effect of invalidity; severability. If any section, subdivision, paragraph, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which remaining portions shall continue in full force and effect.

§ 5. Independent Budget Office report. Pursuant to section 260 of the New York City Charter, no later than thirty months after employers with twenty or more employees are required to provide sick time to employees pursuant to section 3 of this local law, the Independent Budget office (“IBO”) shall report to the Mayor and the Council and post on its website a report presenting data related to the costs and benefits of the Earned Sick Time Act. Such report shall include to the extent practicable given available data and methodologies, but not be limited to, data regarding wage and employment rates; businesses, including small business start-up and failure rates, expenses and revenues; and infectious disease rates; and shall include to the extent practicable a comparison of New York City with surrounding counties and large cities comparable to New York City that do not provide sick time. When reporting this data, the IBO director shall ensure that IBO uses appropriate and professionally accepted methodologies for comparing similar data and identify such methodologies in the report, and shall clearly specify the extent to which the earned sick time act can properly be determined to have had an impact on any of the data analyzed. The report shall be contingent on the availability to IBO of data the IBO director determines to be necessary to complete such report. The IBO director shall be authorized to secure such information, data, estimates and statistics from the agencies of the City as the director determines to be necessary in the preparation of such report, and such agencies shall provide such information to the extent that it is available in a timely fashion.

§ 6. Independent Budget Office review and determination. On December 16, 2013, the Independent Budget Office shall submit to the Council and the Mayor and post on its website a determination stating whether the most recent New York City Coincident Economic Index or similar successor index as published by the Federal Reserve Bank of New York (the “Index”) is at or above its January 2012 level. If such determination states that the Index is below its January 2012 level, the IBO shall make and submit a determination every June 16 and December 16 of each year thereafter, until it determines that the Index is at or above its January 2012 level.

§ 7. This local law shall take effect pursuant to the following schedule:

(1) If the December 16, 2013 Independent Budget Office (“IBO”) determination shows that the most recent New York City Coincident Economic Index or similar successor index as published by the Federal Reserve Bank of New York (the “Index”) is at or above its January 2012 level, then:

(a) All employers that employ twenty or more employees must comply with the provisions of this local law on April 1, 2014;

(b) all employers that employ fifteen to nineteen employees or a domestic worker must comply with the provisions of this local law regarding paid sick time on October 1, 2015;
and

(c) all employers with employees not entitled to paid sick time pursuant to chapter 8 of title 20 of the administrative code as added by section 3 of this local law, including those employers covered by paragraph 3 of subdivision a of section 20-913 of such code as added by section 3 of this local law during the period specified therein, must comply with the provisions of this local law on April 1, 2014.

(2) If on December 16, 2013, the Index is not at or above its January 2012 level, but on June 16, 2014, the Index is at or above its January 2012 level as determined by the IBO, then:

(a) All employers that employ twenty or more employees must comply with the provisions of

this local law on October 1, 2014;

(b) all employers that employ fifteen to nineteen employees or a domestic worker must comply with the provisions of this local law regarding paid sick time on April 1, 2016; and

(c) all employers with employees not entitled to paid sick time pursuant to chapter 8 of title 20 of the administrative code as added by section 3 of this local law, including those employers covered by paragraph 3 of subdivision a of section 20-913 of such code as added by section 3 of this local law during the period specified therein, must comply with the provisions of this local law on October 1, 2014.

(3) If on June 16, 2014, the Index is not at or above its January 2012 level, but on December 16, 2014, the Index is at or above its January 2012 level as determined by the IBO, then:

(a) All employers that employ twenty or more employees must comply with the provisions of this local law on April 1, 2015;

(b) all employers that employ fifteen to nineteen employees or a domestic worker must comply with the provisions of this local law regarding paid sick time on October 1, 2016; and

(c) all employers with employees not entitled to paid sick time pursuant to chapter 8 of title 20 of the administrative code as added by section 3 of this local law, including those employers covered by paragraph 3 of subdivision a of section 20-913 of such code as added by section 3 of this local law during the period specified therein, must comply with the provisions of this local law on April 1, 2015.

(4) If on December 16, 2014 the Index is not at or above its January 2012 level, then the IBO shall make a determination every June 16th and December 16th of each year thereafter until such Index is at or above its January 2012 level, and the effective date of this local law for all employers shall be on the succeeding October 1 or April 1, respectively, after the first such determination that the Index

is at or above its January 2012 level.

- (5) Notwithstanding the preceding paragraphs (1) through (4), in the case of employees covered by a valid collective bargaining agreement in effect on the effective date prescribed by such preceding paragraphs, this local law shall take effect on the date of the termination of such agreement.
- (6) This local law shall take effect pursuant to the preceding paragraphs, and the commissioner of consumer affairs shall take such measures as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

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