

LABOR AND EMPLOYMENT LAW

INFORMATION MEMO

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Manufacturing in the Upstate Tech Corridor Employment Laws that are Unique to New York Part 2

This is the second in a series of articles for manufacturers expanding operations into New York State for the first time, particularly those manufacturers and suppliers taking advantage of the tech boom across the Upstate region, to understand what sets New York apart from a legal and regulatory perspective. ([Read Part 1 here.](#)) The focus of this piece is on New York State leave laws and related protective statutes and regulations.

1. **Mandatory Paid Sick Leave Benefits:** Private employers of all sizes are required by New York state law to provide their employees with sick leave. The amount of leave required depends on the size of the employer. Small employers (0-4 employees with net income of \$1 million or less) are required to offer 40 hours of *unpaid leave*. If that same employer has over \$1 million in net income, those 40 hours must be *paid*. Employers with between 5 and 99 employees must also provide 40 hours of *paid sick leave*. Employers with 100 or more employees are obligated to provide 56 hours of *paid sick leave* per year.

Characterizing the leave as “sick leave” is a misnomer because the statute mandates that employees may use the time-off in many different circumstances, including for a family member’s illness or care, and absences related to the employee’s or their family member’s status as a victim of domestic violence, a family offense, a sexual offense, stalking or human trafficking.

The detailed provisions of the law are too numerous to review here but cover the accrual of leave, carry-over from year to year, and circumstances under which employees must provide notice and/or documentation.

For more information please refer to these previously released information memos:

- [New York Publishes Final Paid Sick Leave Regulations](#)
- [New York Releases Guidance on Paid Sick Leave](#)
- [New York Enacts Paid Sick Leave Law](#)

For those employers with unionized workforces, the New York law does allow for negotiated alternatives to the statutory requirements.

2. **Mandatory Paid Prenatal Care Leave:** The NY Paid Sick Leave law was amended in 2024 to require private employers, effective January 1, 2025, to provide an *additional* 20 hours of paid time off for pregnant employees to obtain prenatal care, including for

physical examinations, medical procedures, monitoring and testing, and discussions with a health care provider related to the pregnancy. The law specifically provides that this leave can be taken in hourly increments.

3. **Paid Family Leave (PFL) Benefits:** Private employers must also provide employees with up to 12 weeks *paid* time to care for family members (including grandparents and siblings) with a serious health condition or to bond with a new child. New York PFL operates as an insured benefit, similar to short-term disability insurance (which is also legally required in New York), where the employee pays for the program through payroll deductions and the paid time is administered by a third-party insurance company. New York's PFL benefit can run concurrently with protected time off under the federal Family Medical Leave Act (FMLA), but unlike FMLA, NY PFL is not available when the employee is absent due to their own serious health condition.
4. **Other Unexpected Time Off Requirements.** New York has a patchwork of other laws that provide employees with time off for various reasons and under various circumstances, making the updating of your employee handbook a critical step in doing business in New York. These leaves, for example, include time to donate blood, donate organs or bone marrow, vote, spend time with a military spouse on leave, serve as a witness after the employee or a close family member has been a victim of a crime, and serve as a volunteer emergency responder during a state of emergency. A manufacturer or supplier, that is new to New York, will want a comprehensive review of its policies for compliance with these various leave statutes and regulations.
5. **Greater Rights for Nursing Mothers.** New York also imposes greater protections for pregnant and nursing women in the workplace. Under federal law, and until recently in New York, employers are obligated to provide *unpaid time* and space for nursing mothers to express breast milk. However, as of June 2024, New York law requires employers to provide thirty-minute *paid* breaks to express breast milk each time the mother reasonably needs time to do so under [conditions prescribed by the Department of Labor](#). Additionally, employers must maintain and distribute a policy on this subject that complies with a [model state policy](#).
6. **A Broad Anti-Retaliation Provision Protects Mandated Leaves.** Closely tied to these statutory leave requirements is a New York Labor Law provision that prohibits retaliation against an employee who has used any legally protected leave pursuant to federal, local, or state law, and expands the typical definition of retaliation to include assessing points under an attendance policy, or deducting time from accrued PTO for the use of statutorily [protected leave](#). This provision also authorizes a private right of action for retaliation claims with potential liquidated damages, in addition to potential prosecution by the NY Dept. of Labor.

These are a few key areas where New York law stands apart from other jurisdictions and presents compliance challenges for manufacturers and suppliers moving into the State. The interplay among the various federal and state leave laws can be particularly complex and nuanced. A comprehensive treatment of NY law is available in [The Essential Guide to New](#)

[York Employment Law](#), written by Bond attorneys. To stay up to date on employment law in New York, subscribe and visit Bond's [New York Labor and Employment Law Report](#), attend Bond's complimentary [Business in 2024 Weekly Webinar Series](#) offered every Tuesday at 12:00 noon, or reach out to the authors, [Kristen Smith](#) or [Thomas Eron](#), or one of Bond's approximately 100 labor and employment attorneys practicing from Buffalo to Long Island and every place in between on the New York State map.

