



THE CITY OF NEW YORK
OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN

**BOROUGH PRESIDENT GALE A. BREWER
TESTIMONY TO THE NYC COUNCIL COMMITTEES ON
CONSUMER AFFAIRS & SMALL BUSINESS JOINT
HEARING
October 29, 2014**

Good afternoon, and thank you for the opportunity to testify today on the implementation efforts of the Earned Sick Time Act, legislation that I introduced as a City Councilmember, and which was recently expanded and signed into law this past February by Mayor de Blasio.

The expanded Act has been in effect since April 1st, which, according to an analysis by A Better Balance, now provides 3.4 million private sector workers in New York City with the right to a paid day off when they or a family member fall in. This includes 1.2 million New Yorkers who had no access to paid sick time prior to the original law's passage. This is an accomplishment we should all be proud of.

Our work on this law is far from over, however; we must now turn our efforts to ensuring that the law is implemented and enforced as seamlessly as possible, and in a manner that is fair to both employers and employees. In particular, we must ensure that small business owners are fully and accurately informed about the law. By most accounts implementation and enforcement has gone smoothly; some small business owners have sought clarification of the law's requirements to ensure that they are compliant.

The smooth implementation of the Act undoubtedly owes much to the excellent work of Commissioner Menin and the staff at the Department of Consumer Affairs (DCA). Since April 1st of this year when the law went into effect, she and DCA have implemented a well-designed and run outreach program to educate both employers and employees about the law, including an extensive advertising campaign on the subways, as well as on television, radio, and the Internet. The agency reports that it has distributed 1.5 million pieces of printed information in 26 languages- far more than the 7 mandated by the law- and has educated 40,000 attendees at various trainings and events. Commissioner Menin and the DCA staff deserve our congratulations and respect for these efforts, and for all their work on the roll-out and administration of such a far-reaching law.



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At the Manhattan Borough President's Office, we too have conducted extensive outreach and held trainings to both small businesses and employees in our Borough to ensure the residents of Manhattan understand the benefits and requirements of the law. We sponsored information sessions in all five boroughs, along with the Public Advocate's Office, the other Borough Presidents, and local Business Improvement Districts. Our office also helped turn out hundreds of volunteers who participated in the large day of action event this past July 15th.

I'd also like to extend my gratitude to groups like A Better Balance, Make the Road, and the Community Service Society who have been complementing the work of the city with their own public education campaigns, research into various aspects of Paid Sick Time, and training for employers and employees. A Better Balance, for example, recently launched an outreach campaign to ensure that employers and employees are fully versed in the rights, requirements, and responsibilities of the Act. Outreach efforts like these are critical to its long-term success, and we are indebted to our non-profit partners for their critical role in what has been a highly successful roll-out.

July 30, 2014 was the first day employees could begin using their earned sick leave, and DCA's efforts to enforce the provisions of the law are now well-underway and some data has become available. This joint hearing provides one opportunity to assess that data, the effect of the public education campaign, and initial efforts at enforcement. As of this past Monday, October 27th DCA informed us that there were over 240 total valid complaints, nearly all of which have been or are being successfully mediated.

Although implementation of the Act is clearly keeping the staff at DCA busy, the agency does not appear to be inundated with baseless complaints as feared by some of the law's critics. To ensure a smooth start-up, I understand that the agency has requested additional staff who would be dedicated to the administration of Earned Sick Time. Adequate staffing is essential to its success, and I fully support such a request to OMB.

Overall, the Act seems to have been introduced fairly seamlessly. I have spoken with many business leaders and organizations regarding their concerns about implementation and enforcement. While business owners certainly still have complaints with Earned Sick Time, these complaints seem to be less about the spirit and intention of the law and more about confusion over specific rules and how the law applies to specific industries. Most employers I speak with want to make sure they are in compliance, and to that end business groups are undertaking their own outreach to ensure that their member owners know the law. The work of DCA and the advocacy and business groups have gone a long way towards overcoming many of the dire predictions about the impacts of Earned Sick Time. However, a couple of issues have come to my attention that I'd like to raise today.



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One issue involves “temp” agencies with government contracts. It is unclear to some of these businesses whether workers under these contracts are employees who are covered by the law. Our reading of the DCA rules is that they are covered. Perhaps more targeted outreach to temp agencies with government contracts would clarify their uncertainty and concern, and ensure that workers from temp agencies under government contract know their rights and receive the benefits of the law to which they are entitled.

Another issue, and one on which I have previously testified, involves workers whose workplaces lack a clear Earned Sick Leave policy, and who are not maintaining an adequate record of their employment. Without documentation, workers have difficulty proving how many days of earned sick pay they are entitled to. To address this issue, our counterparts in San Francisco looked into national research that has shown that workers use, on average, 3 days of sick pay each year. San Francisco has officially adopted this 3-day average as a standard metric to help address instances where, when record keeping is incomplete, workers are denied the days they have earned. San Francisco’s 3-day metric is a commonsense solution I would urge DCA to evaluate, as problems of inadequate record keeping have begun to arise here as well.

Employers also report confusion on the part of employees as to when they must request an earned sick day. Some small businesses report that some employees do not show up for work or contact their employer, and later claim the absence as a sick day. DCA has created clear rules on this subject— an employer can deny an employee the right to payment for an earned sick day if the employee did not provide notice to the employer at the time of his/her absence. However, some small businesses may also be unaware that they are required to educate their employees about everyone’s rights and responsibilities under the Act. This is one aspect of education for both employers and employees that DCA and advocates may need to stress.

With the law in its infancy, regular evaluations will be needed for the foreseeable future. But the smooth roll-out and relatively small number of problems reflect not only the practical soundness of the law and the good will of employers and employees, but the work of all those who help create the Act and the excellent work of DCA. We have much to be proud of.

Thank you again for the opportunity to testify. I look forward to working with all concerned parties on the implementation of the Earned Sick Leave Act.