

Earned Sick Time Act: You've Got Questions, We've Got Answers.

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Today's Topics

- Take Time to Complain
 - This whole thing has been a mess
- The New Requirements
 - When does it become effective
 - Which employers/employees are covered
 - How much paid time is required
 - When can the time be used
 - Frontloading and rolling over
- Your Questions
 - You provided a number of questions already
 - Any questions you think of as we go along

Earned Sick Time Act

One Minute to Complain

ESTA: The New Requirements

ESTA Becomes Effective

- The Act becomes effective on February 21, 2025.
- Unless the legislature intervenes
 - Lame duck session
 - New legislature

Which Employers/Employees Are Covered?

- Applies to all employers in Michigan with one or more employees
- Only exception is for those employed by the federal government
- Includes nonprofit agencies, state and local governments and employers of every type

Which Employers/ Employees Are Covered? (Cont.)

- Applies to all employees who work in Michigan
- Includes exempt and nonexempt employees
- Full time and part time
- Union employees?
- Remote workers?
- Temporary employees?
 - An eligible employee is an individual engaged in service to an employer in the business of the employer

How Much Paid Time Is Required?

- Employees accrue sick time at a rate of 1 hour for every 30 hours worked
- Employers with 10 or more employees must allow at least 72 hours of paid sick time per year.
- Employers with fewer than 10 employee must allow at least 40 hours of paid sick time per year, plus an additional 32 hours of unpaid sick time per year.
 - Employer qualifies if it has not had 10 or more employees on the payroll for more than 20 weeks in the current or prior year.

How Much Paid Time Is Required? (Cont.)

- The “leave year” is any consecutive 12 month period
- All unused sick time can be rolled over into the next year
 - Employers can limit annual use to no more than 72 hours
- New employees begin accruing paid time off immediately, but can be required to wait 90 days before using it.
- Unused paid sick time does not have to be paid out upon termination.

Employees Can Use Paid Sick Time In Either

- One hour increments, or
- The smallest increment your payroll system uses to account for absences, whichever is smaller.

When An Employee Can Use Paid Sick Time

- The employee's or employee's family member's:
 - Mental or physical illness, injury, or health condition
 - Medical diagnosis, care or treatment
 - Preventative medical care
 - Medical, psychological, counseling care related to domestic violence or sexual assault
 - Obtaining services from a victim services organization
 - Relocate due to domestic violence or sexual assault
 - Participating in related civil or criminal proceeding

When An Employee Can Use Paid Sick Time (Cont.)

- Meetings at a child's school or daycare related to the child's:
 - Health
 - Disability
 - Effects of domestic violence or sexual assault
- Closure of the employee's place of business by order of a public official
- Need to care for a child whose school or day care is closed by order of a public official

Notice, Documentation, Legal Action?

- **How much notice is required?**
 - For foreseeable need, an employer may require up to 7 days' notice of the need for leave
 - For unforeseeable need, an employer may require the employee to give notice as soon as is practicable
- **Documentation?**
 - For earned sick time more than 3 consecutive days
 - Must be provided in a timely manner
 - Should not include a description of the reason
 - Employer must pay for all out-of-pocket expenses
 - Cannot delay start of leave based on failure to provide documentation
- **Legal Action?**
 - Employee can pursue action an employer interferes with or retaliates against their use of ESTA benefits, including through private action.

Who Is A Family Member?

- Biological, adopted or foster child, stepchild, legal ward, child of a domestic partner and child for whom the employee stands in loco parentis
- Biological or foster parent, stepparent, adoptive parent, legal guardian of employee or employee's spouse or domestic partner and a person who stood in loco parentis when the employee was a child
- A person to whom the employee is married or a domestic partner
- Grandparent and grandchild
- Biological, foster, or adoptive sibling
- Any other individual related by blood or affinity whose close association is the equivalent of a family relationship

Your Questions?

Frontloading – Pay for Unused Time

1. Does the Act allow for an option to “frontload” the sick time?
 - Is it acceptable to provide a bank up front in lieu of an accrual?
2. Can the employer offer to pay out the leave time at the end of the year instead of allowing it to roll over to the next year?
3. Do we have to cash out earned time?

Tracking Accruals – Amount of Pay

1. Can we charge back time off that a person hasn't accrued when they terminate?
2. How do we track hours worked for salaried exempt employees?
3. How much do we pay the employees for sick time?

Mandate Use - Rollover

1. Can we mandate employees use sick time when they call in even if we don't know the reason, or do they have to request earned sick time specifically?
2. I see no cap on rolling sick time over per year. There is a cap on use, but if I don't use my 72 hours does sick time just continue to keep rolling over?

Notice Requirements – Related Policies

1. Would a notice (similar to GINA) in benefits materials suffice for new employees?
2. How does this impact a three-day non-call no-show policy? How does it work with FMLA?
3. How does this law affect attendance policies and points or occurrences?

Increments

1. We have a policy that requires exempt employees to use PTO in 8 hour increments, does that have to change? We allow nonexempt employees to use 1 hour increments.
2. When it says smallest increments that the payroll system allows, ours does per minute but our PTO policy is 15 minute increments. Can we stay at 15 minutes?

Related Policies

1. Will this apply to bargaining unit employees?
2. Should we integrate our existing PTO, vacation and sick time with the new required sick time?
3. This is a lot, what if we make a mistake?

MICHIGAN PAID SICK LEAVE

EARNED SICK TIME ACT



On-Demand Workshop & Materials

ESTA On-Demand Training and Materials

In this on-demand training, we provide practical guidance about the ESTA and our training materials includes a sample ESTA-compliant policy and a reference flowchart of the interaction between ESTA, FMLA, PWFA, ADA, etc.

To learn more, please visit our website or scan this QR Code:
<https://millerjohnson.com/virtual-workshops-2024/>



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