



Michigan Amends the Earned Sick Time Act and Minimum Wage

Issued date: 03/28/25

The Michigan Legislature recently passed amendments to the Earned Sick Time Act (“ESTA”) and the Improved Workforce Opportunity Wage Act (“Wage Act”) in response to the Michigan Supreme Court’s decision in the *Mothering Justice v. Attorney General*. This means a higher minimum wage and increased sick leave for employees that became immediately effective on February 21, 2025.

■ Earned Sick Time Act

Michigan employers with at least 1 employee are now required to offer sick leave annually to employees. The only exception is the United States government. Who is considered an employee is broadly defined with only 4 enumerated exceptions. The four exceptions are: (1) an individual employed by the United States government; (2) an unpaid intern or trainee; (3) an individual employed in accordance with the youth employment standards act; and (4) an individual whose arrangement meets requirements enumerated in the act.

Employees accrue 1 hour of leave for every 30 hours worked. Regarding the number of hours of leave able to be accrued, there is a distinction between small employers with 10 or fewer employees and large employers with more than 10 employees. The total number of employees is based upon total employees on payroll and not limited to employees located in Michigan. However, only Michigan employees are entitled to sick leave.

Employer Requirements

Large employers must provide 72 hours of paid sick leave each calendar year. Small employers must offer 40 hours of paid sick leave and are exempt from complying with ESTA until October 1, 2025. Additionally, if a small business did not employ an employee on or before February 1, 2022, then the small employer does not have to begin to provide sick leave or otherwise comply with ESTA until 3 years after the date the first employee was hired.

Regardless of employer size, the employer does have the option of offering more leave. Employees must carry over all accrued but unused sick time; however, an employer is not required to allow the employee to use more than 72 hours (large employers) or 40 hours (small employers) each year. Employers do not have to pay out accrued and unused sick time upon termination,



resignation, retirement, or any other type of separation from employment. An employer can impose a waiting period of 120 days for any new employee hired on or after February 21, 2025, before they are eligible to use accrued time. Employers must maintain records that show the hours worked and sick time taken for each employee for a minimum of 3 years.

If an employer frontloads leave at the beginning of the year, the employer is exempt from: (1) allowing employees to carryover hours to the following year, (2) calculating and tracking an employee's accrual of sick leave, and (3) paying the employee the value of the employee's unused accrued paid earned sick time at the end of the year in which the earned sick time was accrued. Frontloading though does not absolve the employer of maintaining records for 3 years.

Employees are allowed to take sick leave in one-hour increments or "the smallest time increment that the employer uses to account for absences of use of other time."

Part-Time Employees

Regardless of employer size, employers have options regarding compliance for part-time employees. Employers can follow the standard accrual method or use an alternative method to provide the part-time employee at the beginning of the year with sick leave hours available for immediate use if:

- The employer provides this employee with written notice of how many hours the employee is expected to work over the next year when hired;
- The amount of the sick leave provided is, at a minimum, proportional to the earned time the employee would have earned if the employee worked all the hours expected that was detailed in the written notice; and
- If the employee works more hours than detailed in the written notice, the employer must provide the employee the additional sick leave in accordance with the accrual requirements.

Notice Obligations, Documentation & Miscellaneous

Notice obligations vary depending whether the use of sick leave is foreseeable or not. If the need for taking leave is foreseeable, then an employer can require advance notice not to exceed 7 days prior before the date of the leave. If the leave is not foreseeable, the employer can require notice:

- As soon as practicable; or
- In accordance with the employer's policy regarding use of sick time or leave if:
 - On the date of hire, effective date of ESTA or effective date of employer's policy (whichever is latest) the employer provides the employee with a written copy of its policy detailing the procedure for how the employee must provide notice; and
 - The employer's notice requirement allows the employee to provide notice after the employee is aware of the need for the sick time.

An employer may require documentation if sick leave is taken for more than 3 consecutive days, but if they do, the employer will be responsible for any out-of-pocket costs associated with obtaining the documentation. The employee must provide this documentation within 15 days of the employer's request and the employer then has the obligation to keep confidential health information and any information related to domestic violence and sexual assault.

The ESTA also includes anti-retaliation provisions when an employee uses sick leave. Failure to comply with ESTA could result in the Director of Licensing and Regulatory Affairs (“LARA”):

- Imposing civil remedies such as payment of earned sick time, back pay, damages incurred, and reinstatement in the case of job loss
- \$1,000 administrative fine with the potential for an additional civil fine up to 8 times the employee’s normal hourly wage
- A civil action filed on behalf of the employee

■ Minimum Wage Law

Beginning February 21, 2025, the legislation created a phased-in approach to minimum wage requirements and adjustments to the tip credit. The tip credit will not be phased out and will diminish by 2% annually until 2031 when the tipped worker’s wage would equal 50% of the state’s full minimum wage.

Date	Minimum Wage	Tip Credit Rate
February 21, 2025	\$12.48	38% of minimum wage
January 1, 2026	\$13.73	40% of minimum wage
January 1, 2027	\$15.00 plus inflation adjustment	42% of minimum wage
January 1, 2028	Inflation adjusted	44% of minimum wage
January 1, 2029	Inflation adjusted	46% of minimum wage
January 1, 2030	Inflation adjusted	48% of minimum wage
January 1, 2031	Inflation adjusted	50% of minimum wage

■ Employer Action

Employers should:

- Review sick leave policies to ensure that accrual periods are calculated correctly.
- Ensure that sick leave policies allow employees a minimum of 40 hours (small employers) or 72 hours (large employers) of sick leave annually.
- Prepare written notice of the sick leave policy and distribute the notice in English and, Spanish (MI Licensing and Regulatory Affairs has sample notices posted on their website).
- Amend document retention policies to maintain sick leave records for at least 3 years
- Adjust hourly rates when the State’s Treasurer releases the new minimum wage adjusted for inflation.
- Review affordability of plans as an increase in wages may permit an applicable large employer to increase employee contributions for health insurance and still comply with the affordability provisions of the Affordable Care Act.
- Consult with employment counsel if intending to rely upon any exceptions in the ESTA to ensure meeting definitions and other obligations.