

CLIENT ALERTS

Earned Sick Time Act Amended! The More Manageable Law Takes Immediate Effect for Most, but Employers Have 30 Days to Draft Policies

Client Alert

2.21.2025

In a late-night session, the Michigan Legislature has amended the Earned Sick Time Act (“Amended ESTA”) eliminating many of the most glaring concerns of employers in implementing the law. The Amended ESTA, which the Governor is expected to sign, requires employers to provide sick time that either accrues at one hour per 30 hours worked or frontloads 72 hours (40 hours for small businesses) for full-time employees and part-time employees’ hours may be pro-rated. If hours are frontloaded, there is no carryover requirement for unused sick time. In addition, employers can require sick time to be used in one-hour increments and also, with caveats, enforce call-in procedures which close a loophole that could have been disastrous in the original law.

The Amended ESTA also eliminated the presumption of retaliation for any adverse personnel action that occurs within 90 days and eliminates a private right of action. Companies with collective bargaining agreements also have some clarity under the amendments.

While the law takes immediate effect, employers do have a 30-day window to post notice and finalize policies to comply with the law. Smaller businesses have until October 1, 2025, before the law impacts them.

Below is a comparison of the original version compared to the new 2025 Amended Act (column on the right):

Earned Sick Time Act, Original Version

2025 Amended Act

Related People

Brett J. Miller
Shareholder

Rebecca S. Davies
Shareholder

Related Services

Labor and Employment

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Increments of Use

Payroll increment or 1 hour, whichever is less

1 hour

Small Employer Definition

Less than 10 employees

10 or fewer

Provides delayed compliance date of October 1, 2025

Employees Exempt

Employees of the Federal Government

1. Employees of the Federal Government

2. Independent Contractors

3. Unpaid trainees and interns

4. Minors

5. Seasonal (not expressly excluded but Act does not mandate use within the first 120 days of employment)

When Accrual Begins

2/21/25

2/21/25

When Employers Must Give Written Notice & Display Poster

2/21/25

30 days from Amendment

Frontload Allowed

Silent

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Expressly permits

Pro-rating hours for part-time is allowed

Benefits of frontloading include:

- 1. No carryover required;**
- 2. Not required to calculate and track accrual; and**
- 3. Not required to pay employee the earned sick time at end of the year**

Carryover/Usage Requirements

All unused earned sick time carries over from year to year; however, an employer is not required to permit an employee to use more than the annual allowed maximum time (paid or unpaid) in a 12-month period.

If frontloaded, no carryover requirement

If accrued, up to 72 hours

(40 hours for small businesses)

Definition of Family Member

Included any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

Removes “or affinity whose close association with the employee is the equivalent of a family relationship”

Remedies

Filing Administrative Complaint

or

Private Right of Action

Administrative Claims (civil fine of 8 times the employee’s hourly wage if Act is violated)

Eliminates Private Right of Action

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Eliminates rebuttable presumption against the employer

Claim Period

Not later than 3 years after alleged violation

Not later than 3 years after alleged violation

Wage Rate

LEO interpreted this to be regular rate of pay (Act stated "normal hourly wage")

Base wage

Does not include overtime, bonuses, tips, commissions

Payment of Unused Accrued Time at Termination

Not Required

Not Required

Requirement to create separate bank of time

None

None

Notification Requirements

Foreseeable – 7 days

Unforeseeable – as soon as practicable

Foreseeable – 7 days

Unforeseeable – as soon as practicable OR in accordance with the employer's written policy

Documentation Requirements

Provide documentation within a reasonable time

Provide requested documentation within 15 days

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Notice and Posting Requirements

2/21/25

30 days from Amendment

Waiting Period for New Employees

90 days after commencing employment to use accrued earned sick time

120 days after commencing employment to use accrued earned sick time

Collective Bargaining Agreement

LEO interpreted this to not impact existing CBAs *if* it addresses sick time

Does not impact existing CBAs (for a maximum of 3 years); exemption for multi-employer plans

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Overall, the Amended ESTA provides relief for employers struggling with figuring out how to comply with the original law. However, this remains an extremely complex law that will require careful policy drafting. Butzel's labor and employment attorneys stand ready to advise on this matter.

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Brett Miller

313.225.5316

millerbr@butzel.com

Rebecca S. Davies

313.225.7028

davies@butzel.com