

PREPARING FOR MICHIGAN'S EARNED SICK TIME ACT IN 2025

Michigan's Earned Sick Time Act ("ESTA") is set to take effect on February 21, 2025. As a result of a decision from the Michigan Supreme Court in July 2024, employers will now have to comply with the ESTA, a voter-initiated legislation from 2018. The ESTA will replace Michigan's Paid Medical Leave Act.

KEY PROVISIONS OF THE ESTA

The ESTA applies broadly to all employers with at least one employee, except for the U.S. government. It covers a wide range of employees, including full-time, part-time, temporary, seasonal and remote employees working in Michigan.

An employer is considered a "small business" under the ESTA if it has fewer than 10 employees. If an employer has more than 10 employees on its payroll for 20 or more workweeks of the current or previous calendar year, it does not qualify as a small business under the ESTA, even if the number of employees decreases during that period.

Under the ESTA, employees accrue one hour of sick time for every 30 hours worked. Employers who meet the "small business" exemption under the ESTA must provide up to 40 hours of paid sick time and 32 hours of unpaid sick time annually. All other employers must allow employees to use up to 72 hours of paid sick time per year. Unused, earned sick time can be carried over from year to year, but employers may limit the employees' annual use of earned sick time to no more than 72 hours.

PERMITTED USES OF EARNED SICK TIME

Employees may use earned sick time for the following reasons:

- The employee's or the covered family member's mental or physical illness, injury or health condition; medical diagnosis, care or treatment of the employee's or covered family member's mental or physical illness, injury or health condition; or preventative medical care for the employee or covered family member;
- Absences where the employee or covered family member is a victim of domestic violence or sexual assault;
- Meetings at the employee's child's school or place of care related to the child's health or disability or the effects of domestic violence or sexual assault on the child;
- For closure of employee's place of business by order of public official;
- Absences when the employee's place of business has been closed by order of the public official or to care for an employee's child whose school or place of care has been closed by order of a public official due to a public health emergency; and
- Absences from the employee or his or her family member's exposure to communicable diseases that would jeopardize the health of others.

ADMINISTRATIVE REQUIREMENTS UNDER THE ESTA

Employers may require employees to provide up to seven days of advance notice for foreseeable uses of earned sick time. For unforeseeable absences, employees must provide notice "as soon as practicable." Reasonable documentation may be required for absences of more than three consecutive days. However, this documentation must not include details about the illness or violence and cannot delay the commencement of sick leave. If documentation is required, the ESTA provides that employers are responsible for covering any out-of-pocket expenses incurred by employees to obtain it.

Employers may not retaliate against employees for engaging in protected activity. The ESTA establishes a rebuttable presumption of a violation of the ESTA if an employer takes adverse action within 90 days of an employee's protected activity.

The ESTA also requires that employers provide written notice of employees' rights under the ESTA either at the time of hire or by its effective date of February 21, 2025, whichever is later. Employers must also post a sign in a prominent and visible location informing

employees of their rights under the ESTA.

PRACTICAL TAKEAWAYS

- **Evaluate and update policies:** Employers should review their current leave policies to ensure they comply with the ESTA.
- **Implement tracking systems:** Employers should implement systems to track accrual, usage and carryover of earned sick time.
- **Consider other legal obligations:** Employers should pay special attention to how the ESTA's requirements may affect its obligations under applicable federal or state-mandated leave laws and the Americans with Disabilities Act.

If you have any questions, need assistance in evaluating your current leave policy to comply with the ESTA or would like additional information about the ESTA, please contact:

- **Kathryn Jones** at (248) 457-7846 or kejones@hallrender.com; or
- Your primary Hall Render contact.

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