

## MICHIGAN'S LEGISLATURE MAKES LAST-MINUTE REVISIONS TO AMEND THE EARNED SICK TIME ACT

As explained in our [previous post](#), Michigan's Earned Sick Time Act ("ESTA") was set to take effect on February 21, 2025. However, late on February 20, 2025, the Michigan Legislature passed House Bill 4002 to amend the ESTA. Governor Whitmer signed the amendment into law on February 21, 2025, and it went into immediate effect.

### KEY CHANGES IN THE AMENDED ESTA

The amended ESTA introduces several major changes, which include, but are not limited to, the following:

- Employees who are exempted from the amended ESTA are: (i) individuals employed by the federal government; (ii) individuals who work under a policy that allows the individual to schedule their own working hours and prohibits the employer from taking adverse employment action if the individual does not schedule a minimum number of hours; (iii) unpaid trainees or interns; and (iv) individuals employed under Michigan's Youth Employment Standards Training Act.
- Small businesses are defined as those who employ 10 or fewer individuals on their payroll for 20 or more calendar workweeks either in the current or immediately preceding calendar year. There is a delayed implementation date of October 1, 2025, for small businesses to comply with the requirements of the amended ESTA.
- All eligible employees must accrue one hour of paid sick leave for every 30 hours worked. Employers can cap employees' use of paid sick leave to 72 hours (or 40 hours for small businesses) annually. Alternatively, employers may frontload 72 hours of paid sick leave (or 40 hours for small businesses). If paid sick leave is frontloaded, employers will not be required to track and calculate their employees' accrual of paid sick leave.
- An employer's paid leave policy may be used to comply with the requirements of the amended ESTA as long as it provides at least the same amount of time as provided under the amended ESTA and may be used for the same purposes under the amended ESTA.
- Paid sick leave must be paid at a pay rate equal to the greater of either an employee's hourly wage or base wage. An employer is not required to include overtime pay, holiday pay, bonuses, commissions, supplemental pay, piece rate pay, tips or gratuities in the calculation of an employee's hourly wage or base wage.
- An employer 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: (i) "as soon as practicable"; or (ii) in accordance with the employer's policy on using sick time, if (a) the employer notifies the employee of their policy after February 21, 2025, and (b) the policy allows employees to provide notice after the employee is aware of the need to use sick leave. Reasonable documentation may be required for absences of more than three consecutive days. The employee must provide this documentation within 15 days after the employer's request.
- Within 30 days of the effective date of the amended ESTA, or by March 23, 2025, employers must notify their employees of their policy, which must include: (i) the amount of paid leave available; (ii) how the benefit year is calculated; (iii) the terms under which paid sick leave may be used; and (iv) a prohibition against retaliation for an employee's request or use of paid sick leave.
- Employees no longer have the right to file a private lawsuit against an employer for violations of the ESTA. Instead, employees who believe that a violation has occurred may file a complaint with the Department of Labor and Economic Opportunity.

### PRACTICAL TAKEAWAYS

- Review and update existing leave policies and practices to ensure compliance with the amended ESTA requirements.
- Display posters and provide written notice to employees of the employer's policy and the amended ESTA by March 23, 2025.

If you have any questions, need assistance in evaluating your current leave policy to comply with the amended ESTA or would like additional

information about the amended ESTA, please contact:

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

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