

## **What Massachusetts Employers Need to Know About the New Earned Sick Time Law**

The Earned Sick Time ballot question recently approved by Massachusetts voters ***impacts all Massachusetts employers***. Effective July 1, 2015, the new law entitles employees in Massachusetts to earn and use sick time in accordance with certain conditions.

### ***How much earned sick time can employees accrue?***

Employees who work for employers having ***11 or more employees*** earn and may use up to ***40 hours of paid sick time per calendar year***, while employees working for smaller employers may earn and use up to ***40 hours of unpaid sick time per calendar year***. All full-time, part-time and temporary employees are counted for determining the number of employees.

Employees earn 1 hour of sick time for every 30 hours worked and begin accruing those hours on the date of hire or on July 1, 2015, whichever is later. Employees may begin using earned sick time on the 90th day after hire. Earned paid sick time must be compensated at the same hourly rate paid to the employee when the sick time is used.

### ***When can an employee use earned sick time?***

An employee may miss work (1) to care for a physical or mental illness, injury or medical condition affecting the employee or their child, spouse, parent, or parent of a spouse; (2) to attend routine medical appointments or those of their child, spouse, parent, or parent of a spouse; or (3) to address the effects of domestic violence on themselves or their dependent child.

Employees must make a good faith effort to notify the employer in advance if the need for earned sick time is foreseeable.

### ***How must earned sick time be paid?***

Earned paid sick time must be compensated at the employee's regular hourly rate, and must be paid to the employee in the payroll cycle covering the time period when the sick time is used.

### ***What if an employee does not use all their earned sick time?***

Employees may carry over up to 40 hours of unused sick time to the next calendar year, but may not use more than 40 hours of sick time in a calendar year. Employers do not have to pay employees for unused sick time at the end of their employment. Employers may not require an employee to work additional hours or to make up for missed time.

### ***Can an employer require certification of the need for sick time?***

Employers may require certification of the need for sick time if an employee uses sick time for more than 24 consecutively scheduled work hours. Employers, however, may not delay the taking of or payment for earned sick time because they have not received the certification.

### ***What is a violation of the earned sick time law?***

Employers may not interfere with or retaliate based on an employee's exercise of earned sick time rights or an employee's support of another employee's exercise of such rights.

The Attorney General will enforce the new law, using the same enforcement procedures applicable to other state wage laws, and employees may file suits in court to enforce their earned sick time rights. Violations of the earned sick time law may subject employers to civil penalties up to \$25,000 per violation. Additionally, employees may file civil suits against employers for violations of this law and may recover treble damages, the cost of litigation and reasonable attorneys fees.

***What if there is already a sick time policy in place?***

Employers that have their own policies providing as much paid time off, usable for the same purposes and under the same conditions, as the earned sick time law would not be required to provide additional paid sick time. The new law does not override employers' obligations under any contract or benefit plan with more generous provisions than those in the proposed law.

***Is there a poster requirement for the sick time law?***

The Attorney General will prepare a multilingual notice regarding the right to earned sick time, and employers will be required to post the notice in a conspicuous location and to provide a copy to employees.

***How should employers prepare for the new earned sick time law?***

Employers should review their sick time policies to assure they are in compliance with this new law. Specifically, employers should assure they have a system that calculates the accrual of sick time in accordance with the sick time law. Additionally, employers should document any employee agreements concerning the use of accrued sick time.