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Client Alert

Changes to Michigan's Earned Sick Time

WHAT'S NEW: In 2018, Michigan voters approved an initiative to expand employee leave rights under Michigan's Earned Sick Time Act (ESTA). The Michigan legislative adopted the initiative, however, the initiative was challenged in court and placed on hold.

In July 2024, the Michigan Supreme Court allowed the initiatives to take effect, but granted a grace period until February 21, 2025. Just before this deadline, the legislature passed a bill making changes to the ESTA. On February 21, 2025, Governor Whitmer signed legislation enacting Michigan's Earned Sick Time Act (ESTA) with key changes. **These changes are effective immediately.**

WHAT IT MEANS: The legislation made several key changes to Michigan's Earned Sick Time requirements:

- Effective immediately, employers with eleven (11) or more employees must permit employees to accrue up to 72 hours of paid Earned Sick Time (EST). The accrual rate must be at least 1 hour per 30 hours worked. Accrued EST must be allowed to carryover. However, a 72-hour carryover cap is permitted.
- **Effective October 1, 2025, small employers (1-10 employees) must permit employees to accrue up to 40 hours of paid EST. The accrual rate must be at least 1 hour per 30 hours worked. Accrued EST must be allowed to carryover. However, a 40-hour carryover cap is permitted.**
- For employers utilizing a front-load method, no carryover is required and the only tracking required is how much paid EST employees have used.
- For part-time employees, employers may utilize the front-load method on a proportional basis if the employer provides an initial estimate at the time of hire. If an employee works above the estimate, the hours must accrue at the normal (1 for 30) rate.
- If an employee is reinstated or returns to the employer within two months of separation, employers must reinstate all unused, accrued EST, unless the employer paid out the EST at separation.
- Employers may require 7 days' notice for foreseeable use. For unforeseeable use, employers may require notice either (1) as soon as practicable or (2) in accordance with the employer's policy, so long as the policy is written and permits notice after the employee becomes aware of the need to use sick time.
- Employers may combine EST with PTO, however, 72 hours are subject to ESTA conditions. Anything above 72 hours may be used in accordance with the employer's vacation/PTO policy.

- Overtime pay, holiday pay, bonuses, commissions, supplemental pay, piece-rate pay, tips, or gratuities are not included when calculating rate of pay.
- Employers may require the employee to provide documentation related to paid EST taken within 15 days of the request, but can only require after three consecutive days off.
- Paid EST may be used in 1 hour increments or the smallest increment used to account for absences.
- Adverse employment actions may be taken if an employee uses sick time for purposes not allowed by the act or violates notice requirements.
- Employers may face civil fines of up to 8 times the employee's hourly wage for violations of the ESTA.

WHAT EMPLOYERS SHOULD DO: As soon as possible, employers should review their current sick time policy to ensure compliance with the new requirements. Employers have until **March 23, 2025**, to post new posters and provide employees with written notice to each employee regarding the amount of EST that is required to be provided. Going forward, written notice must also be provided to an employee at the time of hire.

If your policy needs to be revised, please reach out to your Engage Human Resources Consultant for guidance. A sample policy can be found here. The required poster can be found here.

Please reach out to your Engage Human Resources Partner if you have any questions concerning this alert or other HR matters.