

Massachusetts Earned Sick Leave Law

WHAT IS IT?

Massachusetts' new Earned Sick Leave law requires that all employees are able to accrue sick time to use for preventative care or to care for an existing health condition for themselves or family members.

HOW IS IT ACCRUED?

The new law goes into effect on July 1, 2015. All current employees will accrue 1 hour of sick time per 30 hours worked, beginning on that date. Employees hired after July 1, 2015, will begin accruing sick leave on their first day of employment.

While employees will accrue 1 hour of sick time per 30 hours worked, they may only take a total of 40 hours per calendar year. Any unused time can "rollover" into the next calendar year. The maximum amount of sick time an employee can have in their "sick bank" is capped at 40 hours.

WHAT ABOUT DOCUMENTATION?

Employers may require documentation for absences that exceed 24 consecutive work hours; exceed 3 consecutive work days; occurs 2 weeks prior to a final scheduled day of work before termination of employment, except in the case of temporary employees; occurs after 4 unforeseeable and undocumented absences within a 3-month period; or for employees aged 17 and under, occurs after 3 unforeseeable and undocumented absences within a 3-month period.

WHAT IS REQUIRED OF EMPLOYERS?

Employers may not retaliate against an employee for taking or requesting paid sick leave. Employees who feel they have been retaliated against for using paid sick time will be eligible to file a retaliation claim and may be entitled to back pay.

If an employee demonstrates clear patterns of abuse pertaining to taking sick days, (i.e., taking leave on days just before or after a weekend, vacation, or holiday) they may be subject to discipline.

WHO IS ELIGIBLE?

All employees who work primarily in the state of Massachusetts will begin accruing paid sick leave time on July 1, 2015, or their first day of employment, if hired after July 1, 2015.

HOW DOES AN EMPLOYEE USE THE TIME?

While employees begin accruing paid sick time on their first day of employment (or July 1, 2015), employees are only able to take paid sick leave after the end of the probationary period of 90 days.

In order to take paid sick leave, employees must have enough time accrued in their "sick bank." For example, in order for an employee to take 8 hours (1 day) of sick leave, they must work 240 hours.

Employees may also use their accrued sick time in smaller portions. The minimum amount of sick leave an employee can take is 1 hour. For anything greater than 1 hour, employees may use earned sick time in hourly increments, or in the smallest increment the employer's payroll system uses to account for absences or use of other time.

Employees must provide advance notice to employers, except in the event of an emergency. Emergency situations require as much notice as is reasonable given the circumstances of the event, and should be handled on a case by case basis.

HOW MUCH ARE EMPLOYEES PAID FOR SICK TIME?

Employees are entitled to be paid their same hourly rate for sick leave. For employees earning commission, they should be paid their base wage or minimum wage, whichever is greater.

Incentive-based pay or commission is not used in the calculation of the employees' same hourly rate.

When an employee is terminated or quits, they are not able to "cash out" unused sick time.

Employees who are already covered by a more generous sick time plan, or who live in cities with more generous sick time ordinances, are not restricted by this new law in any way