



Crunch Time

Complying with Michigan's new Employment Statutes

Presented by
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Today's Presenters



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What Happened?

- Hours before the Feb. 21 deadline, the Michigan Legislature made changes to the Earned Sick Time Act (ESTA) ([HB 4002](#)) and minimum wage law ([SB 8](#)).
- The final act requires 72 hours of paid sick leave for full-time employees with carve-out exemptions for new and small businesses.



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Minimum Wage

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Michigan's New Minimum Wage

- Under SB 8, the minimum wage rate increased from \$10.56/hour to \$12.48 on Feb. 21, 2025.
- Future scheduled increases: \$13.73 on Jan. 1, 2026 and \$15 Jan. 1, 2027.
- Inflationary increases will follow Jan. 1, 2028, and each subsequent year using the Midwest Consumer Price Index (CPI).
- For tipped employees, the tipped minimum wage will stay at 38% in 2025 and jump 2% per year beginning in 2026 until it hits 50% in 2031.
- The legislation also added a \$2,500 fine to be assessed to employers who fail to ensure tipped workers get paid at least minimum wage.



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Earned Sick Time Act

Key Changes Under HB 4002

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Employee Exemptions

- Specifies the only employees exempt from the new law are:
 - Those who work in accordance with a policy that allows individuals to schedule their own hours and has a policy that prohibits the employer from taking adverse personnel action if the individual does not schedule a minimum number of working hours
 - Unpaid trainees or unpaid interns
 - Individuals employed in accordance with the Youth Employment Standards Act, MCL 409.101-.124.

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Definition of Employer

- Remains broad, exempting only the U.S. government.
- If a small business did not employ an employee on or before Feb. 21, 2022, it is not required to comply with ESTA until three years after it first employs an employee.
- Small businesses – defined as those with 10 or fewer employees – will have until Oct. 1, 2025, to comply with the ESTA requirements.

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Accrual

- Specifies employees are eligible to accrue one hour of earned sick time (EST) for every 30 hours worked. While employees may accrue more than 72 hours annually, employers may cap usage at 72 hours per year.
- Employees working for small businesses (defined those with less than 10 employees) will accrue at the same rate (one hour for every 30 hours worked) but will only be eligible for 40 hours of paid leave annually (no unpaid leave).

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Carryover

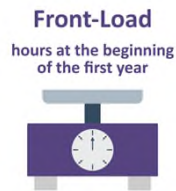
- Caps carryover of time at 72 hours (use-it-or-lose it if time is frontloaded).



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Frontloading

- As an alternative to the accrual method, employers may choose to frontload 72 hours at the beginning of a benefit year (40 hours for small businesses)
- Employers only need to track how many hours of paid leave time employees have used annually.
- No carryover is required.



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Frontloading – Part-time Employees

- Employers may frontload the time at the start of a year if:
 - Employer provides employee with written notice on how many hours employee is expected to work in a year at time of hire.
 - Amount of EST frontloaded is, at a minimum, proportional to EST that employee would accrue if they worked all the expected hours.
 - Part-time employee works additional hours, employer will provide additional hours.



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Waiting Period

- New employees can be required to wait until the 120th day of employment to begin using EST.

(This change should help seasonal employers.)



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Combining ESTA with Paid Time Off (PTO)

- An employer complies with this section if they meet either of the following conditions:
 - Provides employer's employees with PTO not less than the same amounts of time off as provided under ESTA (72/40 hours)
 - May be used for a purpose described under the act OR any other purpose.
- Employers not required to allow employees to use PTO for a purpose described in the ESTA in amounts that exceeds the amounts of time off provided under the act.

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Rate of Pay

- Earned sick time is paid at employee's normal hourly rate (i.e., the rate used to calculate ESTA pay) but **does not** include overtime pay, holiday pay, bonuses, commissions, supplemental pay, piece-rate pay, tips or gratuities.



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Advanced Notice – Foreseeable Events

- Allows up to seven days advanced notice.



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Advanced Notice – Non-foreseeable Events

- Employer may require employees to give notice in either of the following manners:
 - As soon as practicable
 - In accordance with employer's policy on requesting/using sick time or leave IF:
 - On the date of hire, or the effective date of HB 4002, whichever is latest, provides the employee with a written copy of the policy that includes procedures for how the employee must provide notice

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Advanced Notice – Non-foreseeable Events

- That notice requirement allows the employee to provide notice after the employee is aware of the need for the EST
- HB 4002 specifies that an employer requiring notice for sick time that is not foreseeable "shall not deny an employee's use of earned sick time that is not foreseeable if ... the employer did not provide a written policy to the employee ... [and/or] ... the employer made a change ... and did not provide notice of the change within 5 days after the change."

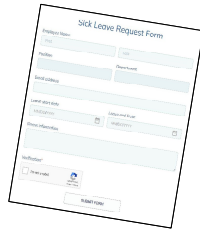
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Documentation

- Says employer may require employees to provide documentation related the EST taken within 15 days of the request (but can only require after three consecutive days off).

A screenshot of a 'Sick Leave Request Form'. The form includes fields for 'Employee Name', 'Date', 'Reason', 'Start Date', 'End Date', 'Number of Days', 'Manager's Name', and 'Manager's Signature'. There are checkboxes for 'Approved' and 'Not Approved', and a 'SUBMIT' button at the bottom.

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Discipline/Adverse Actions

- Specifies an organization can take adverse personnel action against an employee who fails to notify per the employer's policy or misuses the benefit.



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Abuses

- Specifies employers may take adverse personnel action against employees if the employees use earned sick time for purposes other than those described or violates the notice requirements under this act.



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Rebuttable Presumption

- Removes problematic language specifying "[t]here is a rebuttable presumption of a violation ... if an employer takes adverse personnel action against an employee within 90 days after that person ..." files a complaint, cooperates with the department, etc.



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Private Right of Action

- Removes ability of an employee to go straight to court if they believe their employer violated the law.



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Penalties

- Employers who violate the law are subject to penalties, and the Department of Labor and Economic Opportunity is empowered to impose all appropriate relief.



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Posters & Notifications to Employees

- Gives employers 30 additional days to post new posters and provide written notice to each employee about the amount of EST required to be provided under ESTA, the employer's choice of how to calculate a "year," the terms which EST can be used, etc.



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Collective Bargaining Agreement

- Expands on existing CBA language to specify "[i]f an employer's employees are covered by a collective bargaining agreement on the effective date of this act and the collective bargaining agreement conflicts with this act, this act applies beginning on the state expiration date in the [CBA]"
- HB 4002 also provides that employers who participate in a multiemployer CBA and contribute to a multiemployer paid sick leave plan are compliant with ESTA.

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Protect Your Rights

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FAQs

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Questions

- What employers are covered?
- Is it okay to treat full-time and part-time employees differently?
- When do employees begin to accrue sick time?
- What are some of the benefits to frontloading, as opposed to using the accrual method?
- How do I determine whether my company is a "small business?"

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Questions

- How do I define my benefit year?
- What if I frontload and an employee uses all their time and then becomes sick?
- My company benefit year runs July 1 through June 30 – do I have to give employees 72 hours of leave from now until the end of the benefit year?

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Additional Questions?



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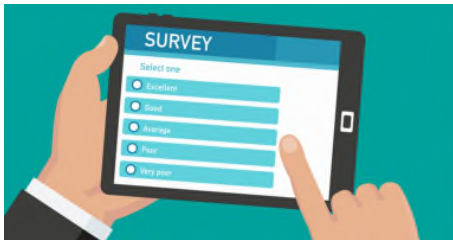
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Post-webinar Survey



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Today's Webinar

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Register Now - Complying with Michigan's new Employment Statutes

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03/10/2025 | Noon to 1 p.m.
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Date: March 10, 2025
Time: Noon to 1 p.m.
Cost: Complimentary

The clock is now ticking for employers to comply with Michigan's new Minimum Wage and Earned Sick Time (EST) acts. This webinar will review them both.

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Thank you for Attending!

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