

Massachusetts Voters Approve Ballot Question Mandating Paid Sick Time

On Nov. 4, 2014, Massachusetts voters approved a ballot question that entitles employees to earn up to 40 hours of sick time each year.

Employees who work for Massachusetts employers having 11 or more employees could earn up to 40 hours of paid sick time per year. Employees working for smaller employers could earn up to 40 hours of *unpaid* sick time per year.

Earned Sick Time Requirements

- Employees will earn one hour of sick time for every 30 hours worked and will begin accruing leave on the date of hire or July 1, 2015, whichever is later.
- Employees are entitled to begin using the earned sick time on the 90th day after hire.
- Exempt employees will earn paid sick time based on the assumption of a 40-hour work week, unless their normal work week is less than 40 hours, in which case their paid time would accrue based on their normal work week.
- The law entitles employees to carry over up to 40 hours of unused sick time to the next calendar year, but employees may not use more than 40 hours of sick time in any calendar year. Unlike unused vacation time in Massachusetts, employers are not required to pay employees for unused sick time at the end of their employment.
- While employers may require certification of the need for sick time when more than 24 consecutive hours of earned sick leave is requested, employers may not delay the taking of, or payment for, earned sick time because they have not received the certification. An employee is not required to provide documentation for absences of fewer than 24 consecutive hours.

Uses of Sick Leave

An employee can use sick time if required to miss work for any of the following reasons:

- To care for the employee's own physical or mental illness, injury or medical condition.
- To care for the employee's child, spouse, parent or parent of a spouse who is suffering from a physical or mental illness, injury or medical condition.
- To attend routine medical appointments of the employee or the employee's child, spouse, parent or parent of a spouse.
- To address the effects of domestic violence.

Action Steps for Employers

- Employers should institute or revise their existing sick leave policies to ensure compliance with the new law.
- Massachusetts employers who already provide a Paid Time-Off (PTO) benefit are advised to determine whether they are providing the minimum sick time requirements under the new law and to consider whether carving out sick time from the PTO benefit would be appropriate. Such a carve-out may prevent the mandatory sick time from being applied in addition to an employee's PTO bank.
- Employers should also take note that the law bars employers from simply paying out unused sick time at the end of the year as opposed to allowing an employee to carry it over to the next year. Similarly, employers with "use it or lose it" sick time policies will be required to make necessary changes.

Notice and Enforcement

- The law amends M.G.L. c. 149 by adding new section 148C.
- The law will be enforced by the Massachusetts Attorney General's Office.
- The law is effective on April 1, 2015.

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