

New Massachusetts Earned Sick Time Law

The new Massachusetts Earned Sick Time Law goes into effect on **July 1, 2015**. Under it, all Massachusetts employees must be allowed to earn and use sick time. The key components of the new law are as follows:

- Employees of employers with 11 or more employees are entitled to earn and use up to 40 hours of paid sick time per calendar year.
- Employees of employers with 10 or fewer employees are entitled to earn and use up to 40 hours of unpaid sick time per calendar year.
- The Earned Sick Time Law applies to employees who primarily work in Massachusetts whether on a full-time, part-time, temporary or seasonal basis.
- An employee can use earned sick time if required to miss work in order (1) to care for a physical or mental illness, injury or medical condition affecting the employee or the employee's child, spouse, parent, or parent of a spouse; (2) to attend routine medical appointments of the employee or the employee's child, spouse, parent, or parent of a spouse; or (3) to address the effects of domestic violence on the employee or the employee's dependent child.
- Employees begin accruing sick time on date of hire or July 1, 2015, whichever is later.
- Employees are eligible to use accrued sick leave after 90 days of employment.
- Sick time is earned at the rate of 1 hour for every 30 hours worked and caps at 40 hours per calendar year. Employers may elect to use a lump sum of 40 sick leave hours on an annual basis.
- Carryover Rights. Employees may carry up to 40 hours of earned sick time into the next calendar year but may not use greater than 40 hours of sick time in a given calendar year.
- Six Month Safe Harbor. Employers who already provide their employees with at least 30 hours of paid time off (PTO) under a sick leave, paid time off, vacation or other paid leave policy that includes sick time may continue to do so as long as it meets the minimum requirements of the new sick leave law.
- Breaks in Service. After a break in service, employees maintain certain rights to use accrued but unused sick leave time prior to the break in service depending on the length of the break of service up to 12 months.
- Employers that have collective bargaining agreements or other contractual obligations that exceed the Earned Sick Time Law requirements are required to continue to comply with those obligations.

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- Employees must notify employers before they use earned sick time, except in case of emergency.
- Documentation requirements. If an employee uses 24 consecutive hours of sick leave, the employer may require an employee to provide a certification from a health care provider that the sick leave was necessary.
- Anti-Retaliation Provision. The Earned Sick Time Law makes it unlawful for employers to retaliate against an employee for using earned sick leave time.
- Notice Obligations. The Attorney General has prepared a notice that Employers must post in a conspicuous location; employers must also provide a copy of the notice to MA employees.
- Recordkeeping Obligations. Employers must maintain earned sick time records for at least 3 years; employees may obtain copies or inspect records pertaining to their earned sick time.
- Enforcement. The MA Earned Sick Time Law is enforced by the MA Attorney General and by private right of action by the employee. Like other MA wage laws, the MA Earned Sick Time Law permits recovery of treble damages of earned sick time benefits and reasonable attorneys' fees.
- Employers should train managers about the new Earned Sick Time Law, including
 - No adverse employment actions in retaliation for use of earned sick leave time;
 - When a health care provider's note can be requested and what information the employer can request concerning the sick leave; and
 - Distinguishing tardiness and absenteeism from legitimate use of sick leave time.
- Employers should update their PTO policies and decide whether to wrap sick leave benefits into their existing PTO policy or create a separate sick leave account.

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