



# MANCHEL BRENNAN

COUNSELLORS AT LAW

## CLIENT ALERT (JULY 1, 2015)

### **MASSACHUSETTS EARNED SICK TIME LAW GOES INTO EFFECT TODAY**

The Massachusetts Earned Sick Time Law goes into effect today. (See November 6, 2014 Manchel & Brennan, P.C. Client Alert, <http://www.manchelbrennan.com/alerts18.php>). The Massachusetts Attorney General recently issued final regulations, the mandatory workplace notice, a sample sick time policy, and a sample verification form that can be used by employers.

Many employers mistakenly believe that they are within the “safe harbor” that allows them to avoid compliance until January 1, 2016. However, the final regulations make clear that the safe harbor is only available to certain employers and under certain conditions. Also, the requirements to take advantage of the safe harbor as stated in the final regulations are significantly different from the initial safe harbor description that was published by the Attorney General.

Some important notes about the safe harbor in the final regulations:

- If the time off, vacation, or sick time policy that you are using to “fit” within the safe harbor excludes **any** employees, you need to act now to grant those excluded employees a sick time benefit. For example, if your existing PTO policy requires that the employee work a minimum number of hours per week to accrue PTO, then as of July 1, 2015, you must make a time off benefit available to employees who previously did not qualify.
- When adding those excluded employees to your policy, if you are using the safe harbor, you are limited to two options. If your policy is an accrual system, the newly-eligible employees must accrue the benefit at the same rate as “covered full-time employees.” If your policy is a lump sum system, the newly-eligible employees must receive a lump sum, which can be pro-rated based upon their schedules, and may be halved to reflect the July 1 start date (the safe harbor assumes that the lump sum to other employees occurred on January 1). Given this limitation, many employers may choose to just achieve full compliance for those excluded employees instead of using the safe harbor (i.e., allowing them to accrue 1 hour of sick time for every 30 hours worked as of July 1, 2015).
- The policy must: allow all employees to roll over up to 30 hours of accrued but unused time off to 2016 (unless the policy provides a sufficient lump sum allocation on January 1, 2016); allow employees to use the time off for any reason covered by the Massachusetts Earned Sick Time Law; and provide time off that is “job-protected.”

Therefore, all Massachusetts employers should now:

- (1) Post the mandatory notice (<http://www.mass.gov/ago/docs/workplace/earned-sick-time/est-employee-notice.pdf>);
- (2) Circulate the mandatory notice to each employee, unless you have published the applicable time off policy in your handbook or manual; and
- (3) Review your policies to determine what changes need to be made and/or what new sick time benefit needs to be added to achieve compliance.

Please feel free to contact us if you require assistance on this or any other employment law issue.

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