



**MANCHEL
BRENNAN**

COUNSELLORS AT LAW

**CLIENT ALERT
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MASSACHUSETTS VOTERS APPROVE EARNED SICK TIME LAW

On November 4, 2014, Massachusetts voters approved a ballot question requiring all employers, regardless of size, to provide sick leave to Massachusetts employees, beginning on July 1, 2015. Important points regarding the new law include:

- For employers with 11 or more employees, the leave must be paid at the employee's normal hourly rate, and in no event less than the minimum wage. For employers with fewer than 11 employees, the leave may be unpaid.
- Sick leave may be used:
 - to care for a physical or mental illness, injury, or medical condition of the employee or the employee's child, spouse, parent, or parent of a spouse;
 - to attend routine medical appointments of the employee or the employee's child, spouse, parent, or parent of a spouse; or
 - to address the effects of domestic violence on the employee or the employee's dependent child.
- Leave accrues at the rate of one hour of sick leave for every 30 hours worked, up to a maximum of 40 hours of sick leave per calendar year. Exempt employees are treated as working 40 hours per week for purposes of accruing sick leave (unless the exempt employee's regular schedule is less than 40 hours per week). Employees begin accruing sick leave on the date of hire (or July 1, 2015, whichever is later), but are not entitled to use any leave during the first 90 days of employment.
- Employees may carry over up to 40 hours of unused sick leave into the next calendar year, but are not entitled to use more than 40 hours in a single calendar year. However, unlike accrued vacation, employers are *not* required to pay out unused sick leave at the end of employment.
- If the employer and the employee agree, the employee may choose to make up time in the same or the next pay period instead of using accrued sick leave, but the employer may not require the employee to do so, and may not require the employee to find a replacement while on leave.

- An employer may require medical certification for absences of more than 24 consecutively scheduled work hours, but may not delay the sick leave or the associated pay because the employer has not received certification.
- The employee must make a good faith effort to provide notice of a leave, if the need for the leave is foreseeable.
- Employers that already provide paid time off under a paid time off, vacation, or other paid leave policy are not required to provide additional sick leave, as long as the leave available under the existing policy meets the requirements for sick leave under the new law. Similarly, the law does not affect an employer's obligation under any existing contract, benefit plan, or collective bargaining agreement that contains more generous sick leave provisions, nor does the law prohibit an employer from offering sick leave policies that are more generous than the law requires.
- Employers will be required to post a notice regarding the new law, once the Attorney General develops and releases the required notice. The law authorizes the Attorney General to adopt rules and regulations regarding implementation of the statute which may provide additional guidance.
- Employers are prohibited from interfering with employees' rights under the new law, and from retaliating against employees who exercise their rights under the law, support the exercise of those rights by other employees, or oppose practices they believe to be illegal under the new law. In addition to enforcement by the Attorney General, employees who believe that their rights under the new law have been violated may bring a private civil suit for treble damages and attorneys' fees.

Employers should take advantage of the time before the law becomes effective on July 1, 2015 to review their policies and procedures and evaluate whether they will need to make any changes. Additional training for supervisory employees also may be necessary.

If you have any questions about this new law, or would like assistance in reviewing or editing your existing policies and procedures, please feel free to contact us.

Also, please remember that the Massachusetts minimum wage rate increases to \$9.00 per hour effective January 1, 2015.

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