



Earned Sick Time Act

PRESENTED BY
Amy Cell



Meet Amy Cell



Amy Cell | President of YYHR

Highlights

- University of Michigan – MBA, BBA
- Plante Moran – CPA
- Ford Motor Company – Labor Rep, Recruiting Analyst
- Stanford Research Institute – HR Manager
- Ann Arbor SPARK – VP of Talent Enhancement Entrepreneurial Education
- Michigan Economic Development Corporation – SVP of Talent Enhancement
- Amy Cell Talent (ACT) – Founder

Learning Objectives

- Review key components of Earned Sick Time Act
- Understand pros/cons of different paths
- Understand key decision making factors for policy creation
- Awareness of requirements

History

- Ballot initiative in 2018
- Adopted and amended
- *Mothering Justice v Attorney General* – decided 7/31/24
- Original law effective February 21, 2025

Overview

- Large employers (10+ employees): Must allow up to 72 hours of paid sick time per year
- Small employers (<10 employees): Must allow up to 40 hours paid and 32 hours unpaid sick time per year
- Employees accrue 1 hour of sick time for every 30 hours worked
- No cap on accrual, but usage limits apply
- All unused sick time carries over to the following year
- Employers can frontload sick time, but must comply with ESTA's accrual, usage, and carryover provisions
- Notice to be provided as soon as practical
- Retaliation and negative consequences not permitted

Employer Obligations

- Track actual hours worked for both exempt and non-exempt employees for three years
- Allow use of sick time in smallest increment used by payroll system
- Flexibility regarding documentation requirements
 - Cannot require documentation for first two days of absence
 - May require documentation after three consecutive days of absence (employer to cover cost)
- Must post ESTA model poster in the workplace and provide a written notice by Feb. 21/hire date
- Provide confidentiality
- Can't retaliate



Policy changes you need to make:

- Part-time and temporary employees do not receive sick leave (or any paid time off)
- For employers that offer PTO and want to make it ESTA compliant
 - Must allow unlimited accrual (can't cap)
 - Must allow roll over (can't pay it out)
 - Cannot require advance notice – Request advance notice vs. Require advance notice
- Attendance policies

Potential HR Challenges

- Adapting existing policies to comply with ESTA
 - Attendance policies
- Managing potential abuse of no-notice, intermittent leave
 - Carrots vs. Sticks
 - Leverage first 90 days
- Implementing new tracking and documentation procedures
 - Changing payroll system accruals
- Training managers on new requirements and restrictions

Implementation Options

- Pure ESTA
 - + Allows flexibility with vacation and other leave
 - Can be more expensive
 - Morale issue if deducted from other paid time off
- Combined sick leave bank
 - + Can be easier to administer
 - Does require components to be changed
- Unlimited paid time off
 - + Easy to document
 - Can be abused

Consideration Factors

- Amount of change
- Financial impact
- Financial risk
 - Unlimited accrual
- Administrative costs
- Staff morale

Implementation tips/considerations

- Applies to employees working in Michigan
 - Employee lives in Michigan and works remote for an out of state employer
- For small businesses (less than 10 employees) employees must be allowed to take paid time off before unpaid time off
- Accrued time does not need to be paid out upon termination
- Accrued time off cannot be paid out at the end of a year
- Employees rehired within 6 months have banks restored
- Frontloaded time can be recouped if an employee leaves mid year
- Allowed to ask questions to ascertain if reason is permitted under ESTA
- ESTA may run concurrently to FMLA
- ESTA is not applied automatically – employees need to request it
- Accrual starts on February 21, it is not retroactive
- If employees leave early, they are paid for time worked

But wait, there's more!

- 1099 contractors do not fall under ESTA
- While you can't require documentation for absences under 2 days, you can still show concern and compassion and ask about the reason for absence to make sure that it is a covered absence
- ESTA is not applied automatically – Employees need to request it.
- PT employees start accruing sick time on February 21
- You cannot withhold ESTA for reasons such as offering another shift or needing to find a substitute for covering a shift
- If you have 100% commission employees, you need to provide ESTA based on a minimum wage or reasonable calculation
- Exempt employees are presumed to work 40 hours unless otherwise documented

Thanks!

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Questions?



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Thank you.

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