

LEGAL UPDATES

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Last Minute Minimum Wage Increase and Sick Leave Amendments to Michigan Employment Law Statutes

In the early morning hours of February 21, 2025, Michigan Governor Gretchen Whitmer signed Senate Bill 8 and House Bill 4002 into law. SB 8 amended Michigan's Improved Workforce Opportunity Wage Act. House Bill 4002 amended the Michigan Earned Sick Time Act. This legislative update introduces several changes that provide greater flexibility for employers while maintaining essential protections for employees.

This article aims to provide Michigan employers with an overview of these amendments, their implications, and the necessary compliance requirements. Both laws are effective immediately, but employers have 30 days to implement their paid sick leave policies and notify employees.

Minimum wage and tip credit

Senate Bill 8 raises the minimum wage in Michigan to \$15.00 an hour faster than the Improved Workforce Opportunity Wage Act. But unlike the prior law that was set to go into effect, SB 8 does not eliminate the tipped wage credit. Instead, it boosts the tip credit to 50%. These amounts may change with state treasurer's inflation adjustments:

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Effective date	Adjusted minimum hourly wage	Tip credit
February 21, 2025	\$12.48	38% of the minimum wage
January 1, 2026	\$13.73	40% of the minimum wage
January 1, 2027	\$15.00	42% of the minimum wage
January 1, 2028	\$15.00, plus inflation adjustment based on Consumer Price Index	44% of the minimum wage
January 1, 2029	Prior minimum wage, plus inflation adjustment based on Consumer Price Index	46% of the minimum wage
January 1, 2030	Prior minimum wage, plus inflation adjustment based on Consumer Price Index	48% of the minimum wage
January 1, 2031	Prior minimum wage, plus inflation adjustment based on Consumer Price Index	50% of the minimum wage (Capped)

Employee exemptions

HB 4002 narrows the scope of employees exempt from the Earned Sick Time Act. Exemptions now include employees who can schedule their own hours without adverse consequences for not meeting a minimum number of hours, unpaid trainees, or interns, and those employed under the Youth Employment Standards Act. Employers should review their workforce to determine which employees may fall under these exemptions.

Accrual and frontloading

Employees continue to accrue one hour of earned sick time for every 30 hours worked, with a usage cap of 72 hours and a carryover cap of 72 hours. Employers opting to frontload sick time are not required to allow carryover, track accrual, or compensate for unused sick time at year-end. Employers can frontload 72 hours at the start of the benefit year or 40 hours for small businesses. Part-time employees may also have time frontloaded under specific conditions.

Waiting period

New employees may be required to wait until the 120th day of employment before using earned sick time. Employers should update their policies to reflect this waiting period and communicate it clearly to new hires.

Combining ESTA with PTO

Employers can comply with the Act by providing paid time off (PTO) that meets or exceeds the amounts required by the Earned Sick Time Act and allows use for any purpose described under the Act. This flexibility can simplify policy management for employers who already offer comprehensive PTO plans.

Rate of pay

The Act clarifies that the normal hourly rate for earned sick time excludes overtime, holiday pay, bonuses, commissions, supplemental pay, piece-rate pay, tips, or gratuities. Employers should ensure their payroll systems are configured to calculate sick time pay correctly.

Notice and documentation

For foreseeable events, employees must provide up to seven days' advance notice. For unforeseeable events, notice should be given as soon as practicable, in accordance with employer policy, provided the policy is communicated in writing. Documentation may be required for sick time taken within 15 days of the request, but only after three straight days off.

Discipline and adverse actions

Employers are permitted to take adverse action against employees who fail to notify per policy or misuse the benefits under the Act. That said, the prior language creating a rebuttable presumption of a violation for adverse actions within 90 days of a complaint has been removed.

Reinstatements

Employees reinstated within two months of separation must have unused, accrued time reinstated unless it was paid out at the time of separation. Employers should maintain accurate records of accrued sick time to ensure compliance.

Private right of action

The amendment removes the language allowing employees to go directly to court for violations, potentially reducing litigation risks for employers.

Compliance requirements

Employers have until March 23, 2025, to post new posters and provide written notice to employees about the earned sick time requirements and terms. Small businesses, defined as those with fewer than ten employees, have until October 1, 2025, to comply with the Act's requirements. Additionally, small businesses that did not employ any employees before the effective date of the 2025 amendments are exempt for three years from the date they first employ an individual.

What this means to you

The amendments to the Michigan Earned Sick Time Act introduced by HB 4002 offer increased flexibility for employers while maintaining essential employee protections. Employers should review and update their policies to ensure compliance with the new requirements. By understanding and implementing these changes, Michigan employers can effectively manage their workforce and maintain compliance with state law.

In addition to the amendments to the Earned Sick Time Act, the Improved Workforce Opportunity Wage Act also eliminated the phase out of the tip credit while increasing minimum wage to \$15.00 an hour sooner than the prior version. The amendments raise the minimum wage incrementally, aiming to reach \$15 per hour by 2027. This gradual increase is designed to provide economic security to workers while giving businesses time to adjust to the higher wage requirements. Employers must stay informed about these changes and plan their budgets accordingly to accommodate the rising wage standards.

Contact us

If you have questions concerning these new latest amendments to Michigan employment law or other related labor and employment law questions, please contact Thomas Cedoz, Zoey Mayhew, Ayissa Maldonado, or your Husch Blackwell attorney.