



News & Types: Employment, Labor & Benefits Update

# Michigan Expands Sick Leave and Increases Minimum Wage in 2025

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Practices: Employment, Labor & Benefits

Michigan employers must soon provide substantially more sick leave to eligible employees. They will be subject to new annual minimum wage increases starting in 2025. On July 31, 2024, the Michigan Supreme Court ended the six-year battle over the Improved Workforce Opportunity Wage Act and the Earned Sick Time Act. It reinstated the 2018 voter-initiated versions of the state's minimum wage and sick leave laws. In addition to expanding employee rights, previously exempt smaller employers will, for the first time, be required to provide eligible employees with the rights described here. The following provides a summary of the two laws scheduled to go into effect on February 21, 2025, and recommendations on how employers can prepare.

## **The Earned Sick Time Act**

The Earned Sick Time Act ("ESTA") covers all employers, including those with as few as one employee. It covers employees in all classifications (exempt and non-exempt). The ESTA namely does the following:

- Expands the allowable use of sick leave while limiting the ability of employers to confirm appropriate use by employees;
- Creates a private cause of action with a three-year statute of limitations if an employer interferes with or retaliates against employees for exercising rights under the ESTA, with a violation potentially resulting in reinstatement, back wages, liquidated damages, and attorney's fees and costs;
- Eliminates the ability to "front load" sick leave and requires employers to use an accrual rate of 1 hour of sick leave accrued for every 30 hours worked;
- Larger employers (those with ten or more employees) must permit employees to use up to 72 hours of paid earned sick leave per year – increased from 40 hours;
- Small employers (those with less than ten employees) must permit employees to use up to 40 hours of paid earned sick leave per year and up to an additional 32 hours of unpaid earned sick leave per year; and
- Allows employees to carry over unused sick leave, although employers may limit use to no more than 72 hours of earned sick leave each year.

## **The Improved Workforce Opportunity Wage Act**

The Michigan Supreme Court linked wage increases to the annual schedule below but ordered the state treasurer to calculate new inflation-adjusted rates.

Date	Minimum Wage Amount Per Hour (Note: these figures are yet to be increased for inflation)
February 21, 2025	\$10.00
February 21, 2026	\$10.65
February 21, 2027	\$11.35
February 21, 2028	\$12.00
February 21, 2029 (and every year afterwards)	Treasurer to calculate the inflation-adjusted minimum wage

### Steps Michigan Employers Should Consider Taking To Prepare:

Review and revise leave policies to ensure that they will comply with the ESTA once it takes effect, including the following:

- Leave accrual rates of at least one hour of leave for every 30 hours worked (instead of one hour of leave for every 35 hours worked under Michigan’s Paid Medical Leave Act);
- Yearly accrual allowance of at least 72 hours (instead of 40 hours under Michigan’s Paid Medical Leave Act);
- Leave increment is the smaller of one hour or the smallest increment used by the employer’s payroll system, and
- All employees, including exempt and non-exempt employees, will be covered irrespective of hours worked.

Determine if a no-fault attendance policy is in place and ensure it complies with the ESTA. The ESTA states, “An employer’s absence control policy shall not treat earned sick time under [ESTA] as an absence that may lead to or result in retaliatory personnel action.” No-fault attendance policies (i.e., policies under which employees accumulate points for absences, tardies, or early departures without assigning fault, but once employees hit a certain number of points, they can be disciplined or even terminated) should be revised to ensure that the ESTA absences (as well as other absences protected by law) are not counted.

Confirm compliance with the inflation-adjusted minimum wage rates once announced by the Michigan treasurer.

We will keep you apprised of additional developments as soon as they are available. Please contact Riebana E. Sachs or any member of the Employment, Labor and Benefits Group with any questions regarding these significant legal developments for Michigan employers.

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