

Earned Sick Time Act

HRM & Maner Costerisan



AGENDA

- CURRENT STATUS OF ESTA
- IMPLEMENTATION CONSIDERATIONS
 - HUMAN RESOURCES
 - PAYROLL
 - FINANCE/BUDGETING
- HELPFUL RESOURCES
- QUESTIONS & ANSWERS



MANER COSTERISAN

www.manercpa.com



Bethany Verble, Senior Manager

bverble@manercpa.com

517.999.5816



Courtney Kelterborn, Manager

ckelterborn@manercpa.com

517.999.5832

HRM SERVICES, LLC.

www.workwithhrm.com



Jodi Schafer, Owner

jodischafer@workwithhrm.com

517.974.8033



Andie Creamer, Consultant

andiecreamers@workwithhrm.com

517.230.5320



Is this 'for sure' going to happen?

YES – But we are hoping for amendments



MICHIGAN CHAMBER OF COMMERCE IS LEADING A COALITION EFFORT TO ASK FOR THE FOLLOWING CHANGES:

- Exempt plans that meet or exceed the mandated 72 hours/year
- Allow employers to frontload 72 hours at start of year
- Exempt small business and certain workers (PT, seasonal, temporary)
- Require time to be used in full-day or half-day increments
- Allow for advanced notice requirements
- Eliminate the private right of action and rebuttable presumption

HB 6056 & HB 6057

HOUSE BILL NO. 6057

November 07, 2024, Introduced by Rep. Filler and referred to the Committee on Regulatory Reform.

A bill to amend 2018 PA 338, entitled
"Earned sick time act,"
by amending sections 2 and 3 (MCL 408.962 and 408.963).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 2. As used in this act:
2 (a) "Department" means the department of ~~licensing~~ **labor** and
3 ~~regulatory affairs~~ **economic opportunity**.
4 (b) "Director" means the director of the department of

- On 11/7/24 starter (shell) bills were introduced on both issues.
- HB 6056 (minimum wage; Rep. Shannon) and HB 6057 (earned sick time; Rep. Filler). Bipartisan bill package by design.
- Both bills were referred to the House Regulatory Affairs Committee. **Hoping to see action in the coming weeks.**



Implementation Considerations

Human Resources

**DETERMINE SCOPE AND
SCALE OF THIS CHANGE**



WHICH EMPLOYEES AND AT WHAT COST?

- Who currently receives paid time off? How much and at what cost to you?
- How much would ALL current employees accrue under new ESTA rules if they continued to work a similar schedule?
- What is the projected financial impact of this change? How will you pay for it?
- Do you want to create a new sick time bank or carve out paid sick time from existing time off benefits? Will this feel like a 'take away' to staff if you carve sick time out of PTO?

UPDATE YOUR CURRENT SYSTEMS



TIME TRACKING, TIME OFF REQUESTS, PAYROLL

- Who is your payroll provider? What changes are they making to comply with this new law?
- In what increments do you currently track time in your payroll/timekeeping system?
- How will you label 'sick time' in time off request process and your payroll system for accrual and use tracking purposes?
- Can you pull reports on hours worked, sick time accrued, and sick time taken by employee for a 3-year span?

**UPDATE YOUR CURRENT
POLICIES**



UPDATE YOUR CURRENT POLICIES

- Paid time off policies – including frontloaded time and payout rules
- Eligibility rules and covered reasons
- Advance notice requirements and call-in procedures
- Documentation requirements
- Discipline and bonus eligibility based on attendance
- Holiday pay rules that are dependent on working day before/after
- Coordination with FMLA, STD, WC, Medical Leaves

**NOTIFY STAFF OF
CHANGES/RIGHTS UNDER
ESTA**



NOTIFICATION REQUIREMENTS

Notify current and ALL NEW HIRES of:

- (a) The amount of earned sick time required to be provided to an employee under this Act.
- (b) The employer's choice of how a 'year' will be calculated.
- (c) The terms under which earned sick time can be used.
- (d) A prohibition on retaliation for an employee's rights under this Act.
- (e) The employee's right to bring a civil action or file a complaint with the department (State of Michigan) for any violation of this Act.

Notices must be written in English, Spanish and any other language spoken by at least 10% of the employer's workforce.

UPDATE YOUR DOCUMENTS

- Employee handbook and/or associated policies
- Employment law posters
- New hire packets
- Separation checklists

RESOURCES TO ASSIST WITH HR COMPLIANCE

HRM RESOURCES

ATTENDEES WILL RECEIVE AN EMAILED LIST OF RESOURCES WITH LINKS AFTER THIS PRESENTATION.

HRM Resources – www.workwithHRM.com/tools/

- ESTA At-a-Glance Document
- Employer Compliance Worksheet
- Sample Employee Notification Letter
- Sample Handbook Policy Language
- Make-and-Take Handbook Seminar on 1/9/25
- **HR Hot Topics Videos and Webinar Recording**



A laptop screen displaying a business dashboard. The dashboard has a teal header with the text "DRIVERS OF PROFITABILITY". Below the header, there are navigation tabs for "Weekly", "Monthly", "Quarterly", and "Yearly". The main content area shows a bar chart titled "Percent distribution of ordering" with a legend for "Volumes". A blue button labeled "PRESS TO DEEP DIVE" is visible at the bottom of the screen. The laptop keyboard is partially visible at the bottom.

Implementation Considerations Payroll

IDENTIFY ELIGIBLE WORKERS

- ESTA applies to all employers with one or more employees except for the US Government
- ESTA defines an eligible employee as:
 - “an individual engaged in service to an employer in the business of the employer, except that employee does not include an individual employed by the United States government”
- Wage and Hour Division has said this does not include independent contractors
 - If you give sick leave to an independent contractor, they can use this as an argument that they are actually an employee
- Employees outside of Michigan are NOT covered, but if they occasionally work in Michigan they would be covered

DETERMINE PAY RATES

- ESTA time must be paid at the employee's regular hourly or standard wage rate
- Must be able to prove the number of hours worked
- For commission-only or stipend employees, an average pay rate must be determined
- Do not include bonuses in average pay calculations
- Maintain records of any calculations
- Make sure employee pay rates comply with the new minimum wage under IWOWA




TIME TRACKING & COMPLIANCE

- Sick time is accrued at 1 hour per 30 hours with no weekly, monthly, or annual cap
 - Employers **may limit the amount of sick time used in a benefit year to 72 hours**
- Sick time is accrued based on hours worked, not hours paid
 - **Does not include holidays, PTO, etc., but does include overtime hours worked**
- Sick time must be tracked/accrued at the same interval employees track their hours
- Unused time is carried over from year to year, with no rollover cap
- If an employee leaves and returns within 6 months, their accrued sick time must be re-instated



TIME TRACKING & COMPLIANCE

- New sick time policy can be baked into your current policies, but it may be better to separate them
 - ESTA goes into effect 2/21/25, so you do not need to accrue for hours worked before that date
 - If there are any disputes, the burden of proof is on the employer
 - Document, document, document...
- 

A laptop screen displaying a business dashboard. The dashboard has a teal header with the text "DRIVERS OF PROFITABILITY". Below the header, there are navigation options for "Weekly", "Monthly", "Quarterly", and "Yearly". The main content area shows a bar chart titled "Percent distribution of ordering" with a legend for "Volumes". The chart shows a distribution across categories, with the first category having a value of 25. Below the chart, there is a button labeled "PRESS TO DEEP DIVE" and a legend for "24 hours earlier", "12 hours", "3 hours", and "1 hour".

Implementation Considerations

Budgeting

DIRECT COSTS

- Newly eligible staff
 - Seasonal
 - Part-time
 - Interns
- Additional staff or overtime
- Pay-out considerations at termination/retirement
- Documentation requirements



INDIRECT COSTS

- Increased administrative time
- Increased payroll processing time
- Possible increase in payroll provider costs
- Additional legal costs

BUDGETING FOR COSTS

- Get a good understanding of **current** costs – both direct and indirect
- Begin tracking usage and costs for future forecasting
 - Consider a budgeting software
 - Utilize data analytics
- Ensure adequate reserves & monitor your liabilities

RESOURCES TO ASSIST WITH PAYROLL/BUDGET COMPLIANCE

MANER COSTERISAN RESOURCES

- Year-end payroll planning webinar: https://zoom.us/webinar/register/4917333175365/WN_5TZ7TGwnRJ-X4ToYA--cnQ
- ADP resources: [ADP RUN Essential Payroll 2024.pdf](#)
- Martus Budgeting: <https://www.martussolutions.com/capabilities/budgeting>

Questions from Attendees





THANK YOU

THE RECORDING OF THIS WEBINAR, ALONG WITH RESOURCE DOCUMENTS, WILL BE SENT TO ALL PARTICIPANTS FOLLOWING THIS PRESENTATION.