



## **Massachusetts Earned Sick Leave Law: Are you in Compliance?**

By now you are probably aware that last year, Massachusetts voters approved a new sick leave law that went into effect on July 1, 2015. Many employers took advantage of the so-called “safe harbor” provision in the law and the implementing regulations that allowed them to delay full implementation until January 1, 2016, as long as they complied with certain general provisions of the law. This safe harbor expired on January 1, 2016 — so employers that relied on the safe harbor rules should have put in place new policies to comply with the sick leave law and distributed those policies to their employees before December 31, 2015.

### **Summary of the Law**

Employers must provide all employees, including part-time, seasonal, and temporary employees, one hour of sick time for every 30 hours worked, up to a maximum of 40 hours per year. Employers with 11 or more employees must provide paid sick time; employers with fewer than 11 employees must provide unpaid sick time. The law permits employees to take sick leave for the following purposes:

- (1) An employee’s own physical or mental illness or injury that requires care;
- (2) To care for the employee’s immediate family member suffering from physical or mental illness or injury;
- (3) For the employee’s own or their immediate family member’s attendance at routine medical appointments; or
- (4) To address the psychological, physical, or legal effects of domestic violence against the employee or the employee’s child.

NOTE: All employees, whether working in or outside Massachusetts, are counted to determine employer size.

### **Employers with PTO Plans**

Employers with a policy in place that provides paid time off (PTO) or paid sick leave will be deemed in compliance with the Earned Sick Time Law if they provide certain criteria in their current policies, as follows:

- a. Employers that provide employees with 40 or more hours of paid time off or vacation that also can be used as earned sick time consistent with the Earned Sick Time Law are not required to provide additional sick leave to employees who use all their time for other purposes (i.e., vacation or personal time), provided that the employers’ leave policies make clear that additional time will not be provided.
- b. Employers may have their own sick leave or paid time off policies, as long as all employees can use at least the same amount of time, for the same purposes, under the same conditions, and with the same job protections provided in the Earned Sick Time Law.
- c. Employers that provide other forms of PTO or vacation time are not required to provide additional paid sick time if employees can use the PTO or vacation time for sick leave on the same terms and conditions provided under the sick leave law. Further, if an employee exhausts the time by using it for purposes other than sick leave (i.e., vacation or PTO), the employer does not need to give



the employee additional sick time, as long as it has given employees notice that additional sick time will not be provided in such circumstances.

### Next Steps for Employers

1. By January 1, 2016, all employers must have adjusted their policies to conform to the law.
  - a. If you are a current full-service client of HR Knowledge, we will review your paid time off policies and help you adopt a policy that is compliant with the law.
  - b. If you are not a full-service client and would like our assistance in updating your time off policies, we are happy to help; however, there will be an hourly rate charge. Please email [HR@hrknowledge.com](mailto:HR@hrknowledge.com) if you are interested in learning more about becoming a full-service client.
2. Massachusetts employers with one or more employees are required to post the Earned Sick Time Notice of Employee Rights.
3. The notice is now available for downloading on the Attorney General's Earned Sick Time [website](#). Notices in other languages will be coming soon. We advise employers to post this notice as soon as possible and update it with the new All-In-One poster.
  - a. The HR Knowledge All-In-One poster satisfies the posting requirements for employers of all sizes. Displaying the posters informs your employees about their labor and employment rights and helps them better understand their requirements. Failure to post required federal and state labor law notices may result in both federal and state fines.
    - i. If you are a full-service client of HR Knowledge, we will provide these updated All-In-One posters at no charge, except for shipping fees.
    - ii. If you are not a full-service client and are interested in ordering new posters, please complete the order form on our website, which you can access [here](#).
    - iii. Please Note: The Earned Sick Time Notice of Employee Rights requires a new All-In-One poster instead of the Peel-N-Post overlay. If you have already ordered a Peel-N-Post overlay for the Fair Employment Posting Requirement, we will cancel that order as you will need to order the full poster.

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