



## Massachusetts Sick Leave Law Delayed for Some Employers

Massachusetts employers that already have a paid sick time policy will now have additional time to comply with the state's new earned sick time law, thanks to a "safe harbor" provision issued by the Massachusetts Attorney General's Office (AGO). The new law, effective July 1, 2015, requires employers to provide employees with up to 40 hours of sick leave each calendar year.

The safe harbor grants some employers a grace period until January 1, 2016, to comply with the law. However, those employers not eligible for the safe harbor still need to comply by July 1, 2015. You can read more about the safe harbor [here](#).

### Safe Harbor Provisions

1. To be eligible for the safe harbor for the period of July 1 to December 31, 2015, employers must currently have a "Paid Time Off\* Policy" in existence since May 1, 2015, allowing employees at least 30 hours of paid time off during the calendar year 2015. (Only 30 hours are required for the remainder of 2015, as opposed to the 40 hours required by the paid sick leave law, because it is a partial year.)  
*\*There is a lack of clarity in the safe harbor provisions as to whether this only applies to employers with a paid time off ("PTO") bank that can be used for vacation, sick, and personal time or will also apply to employers with a straight vacation policy but no paid sick time policy.*
2. Employers currently offering paid time off to some but not all employees may take advantage of the safe harbor by extending 30 hours of paid time off to *all* employees, including the currently ineligible employees, "under the same conditions," from July 1 to December 31, 2015. For example, if an employer's current PTO applies to full-time employees but not part-time employees, the employer should amend the policy to provide 30 hours of paid time off to all employees, and communicate this change to all employees.
3. To remain in compliance, any paid time off (including sick time), used by an employee from July 1 to December 31, 2015, must be job-protected leave subject to the law's non-retaliation and non-interference provisions. In all other respects, during this transition period, the employer may continue to administer paid time off under policies in place as of May 1, 2015.
4. On or before January 1, 2016, all employers operating under this safe harbor provision must adjust their PTO policy to conform to the state's earned sick time law.

### Next Steps for Employers

- If you qualify for the safe harbor, we recommend that you:
  - Ensure that the paid time off provided by a paid time off policy in effect on May 1, 2015, is extended to all employees by July 1, 2015;
  - Ensure that all employees have the right to use at least 30 hours of paid time off during calendar year 2015. (You can pro-rate the amount of paid time off for part-time employees as long as all employees receive at least 30 hours of paid time off); and
  - Revise your current paid time off policy to conform to the sick leave law and regulations by January 1, 2016.
- If you do *not* qualify for the safe harbor, we recommend that you:
  - Carefully consider the proposed regulations for the sick leave law (you can find the proposed regulations [here](#));



- Prepare a policy that complies with those regulations and that will go into effect by July 1, 2015
- You are prohibited from taking adverse action (e.g., disciplinary warnings or negative performance evaluations) against your employees for using accrued sick time.
- If you are one of our full-service clients, we will help you review your current PTO policies to ensure they are compliant with these new proposed regulations.
- The AGO has been holding public hearings on the proposed regulations (the schedule is [here](#).) Our hope is that many of the inconsistencies and ambiguity in the proposed regulations will be addressed and flushed out before the final regulations are published.

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