

Michigan Employment Law Alert: Recent Changes to Michigan's Paid Sick Leave and Minimum Wage Laws, by Kevin Yombor, Esq., 3-28-2025

Michigan employers should ensure they are complying with recent changes to the state's minimum wage law and paid sick leave law.

On February 21, 2025, Michigan Governor Gretchen Whitmer signed Senate Bill 8 and House Bill 4002 into law, which took effect immediately. These last-minute amendments follow on the heels of a July 31, 2024 Michigan Supreme Court ruling (*Mothers Justice v. Attorney General*), which restored the originally adopted voter initiatives for minimum wage and paid sick leave.

Background

In Mothers Justice v. Attorney General, the Michigan Supreme Court addressed the constitutionality of the Michigan Legislature's "adopt and amend" tactic concerning two voter-initiated laws: the Minimum Wage Act and the Earned Sick Time Act (ESTA). In 2018, the Legislature adopted these initiatives but subsequently amended them within the same legislative session, a process challenged by advocacy groups, including Mothers Justice.

The Feb. 21st amendments were meant to offer some reprieve to employers including preventing the eventual elimination of the tipped wage credit, which would have occurred under the Supreme Court ruling.

Below is a brief overview of the laws, which took effect immediately on 2/21/25.

Senate Bill 8

Senate Bill 8 amends the Improved Workforce Opportunity Wage Act, adjusting the state's minimum wage and tipped wage schedules. Among provisions, it raises the minimum wage from \$12.48 in 2025 to \$15 by January 1, 2027, with mandatory annual adjustments equal to the rate of inflation thereafter.

Notably, this year, marked two minimum wage increases: one on January 1, 2025 from \$10.33 to \$10.56 per hour, and the second on Feb. 21, 2025 when wages increased to \$12.48 per hour

In addition to the minimum wage adjustments, SB 8 also increases the minimum cash wage for tipped employees, which for 2025 is \$4.74 or 38% of the regular minimum wage rate, eventually increasing to 50% by 2031.

Employers be warned that non-compliance for violating the tipped minimum hourly wage provisions carries a potential \$2,500 fine.

For more details on the wage increases please see the Michigan Department of Labor & Economic Opportunity's FAQ.

House Bill 4002

HB 4002 amends the Michigan Earned Sick Time Act (ESTA) to incorporate some significant changes.

According to a recently released FAQ, these include:

- **Accrual Method:** Employees accrue 1 hour of paid sick time for every 30 hours worked, and unused paid sick time rolls over up to 72 hours, or 40 for a small business. Employers may limit the use of earned sick time to 72 hours, or 40 for a small business, in the 12-month period.
- **New Hire Waiting Period:** If using the accrual method, employers may have a policy for new employees hired on or after Feb. 21, 2025, requiring these employees to wait up to 120 days before using accrued sick time. Employees accrue earned sick time during this waiting period. If frontloading, hours are available for immediate use.
- **Small Business Compliance:** Small businesses have until Oct. 1, 2025, to comply with ESTA requirements. Small business is defined as an employer having 10 or fewer employees.
- **Frontloading Paid Sick Time:** As an alternative to the accrual method, employers can choose to frontload at least 72 hours of paid sick time for immediate use each year, or 40 hours for a small business, which eliminates the requirement for carryover or accrual tracking for full-time employees.
- **Frontloading Part-time Employees:** As an alternative to the accrual method, employers may frontload paid sick time for part-time employees as well, with a prorated amount, subject to specific notice and true-up requirements.
- **PTO Policy:** Employers can use a combined paid time off (PTO) policy to meet ESTA requirements, as long as the total paid leave meets or exceeds the necessary amounts and may be used for the same purposes.
- **Hourly Rate:** For ESTA purposes, an employee's hourly rate is their normal hourly wage or base rate and excludes overtime, holiday pay, bonuses, commissions, tips, etc.
- **Sick Time Increments:** Employers may choose to use either one-hour increments or the smallest increment for tracking sick time usage.
- **Advanced Notice:** If an employee's need for sick time is not foreseeable, the employee must give notice of their intention to use sick time in the following manner: (a) as soon as practicable, or (b) in accordance with the employer's policies, provided that the employer has been provided with a written copy of the policy.

Failing to comply with this new law may result in the employer being subjected to a civil fine of not more than 8 times the employee's normal hourly wage. And a willful violation may subject the employer to a civil fine of up to \$100 per violation. Employers should already be complying with these changes or seek counsel if they need assistance navigating the recent amendments.

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