

| EARNED SICK TIME ACT (ESTA) SET TO GO INTO EFFECT ON FEBURARY 21, 2025 | HB 4002 ENACTED |
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| Employees earn one hour for every 30 hours worked | no changes |
| Requires employers to pay up to a max of 72 hours of earned sick time each benefit year | Employers pay a max of 72 hours for over 10 employees, 40 hours of 10 and under employees |
| Benefit year means a regular and consecutive 12-month period, as determined by an employer. | no changes |
| All employees in Michigan except Federal employees | Youth workers under 18, unpaid interns and trainees, and new small business start ups exempt |
| Allows employers with 9 employees or less to allow for a max of 72 hours but are only required to pay 40 hours with 32 hours being unpaid. | changed definition of small business to 10 and under; eliminated 32 hours unpaid so only 40 paid |
| An employer is not a small business if it maintained 10 or more employees on its payroll during any 20 or more calendar workweeks in either the current or the preceding calendar year. | changed to MORE THAN 10 |
| Employers can ask for prior notification, but cannot require it in order for an employee to use earned sick time and is prohibited from disciplining employees who do not provide notification | If provides written policy at the time of hire that provides for notification procedures, employer is able to enforce requirements within reason - this change with the elimination of the private right of action and rebuttable presumption makes notification much easier to enforce |
| ESTA rigid in how time is accrued, tracked, and used | Allows flexibility for employers |
| <i>ESTA only indicates that sick time can be earned as an individual works</i> | <i>Employers can choose to track accrual</i> |
| <i>Allows no frontloading of time</i> | <i>Employers can frontload</i> |
| Unused earned sick time carries over in perpetuity with no maximum | Employers who frontload are not required to carry over sick time; employers who use accrual can either pay out sick time or can limit carry over to 40 hours or 72 hours depending on employer size |
| Does not allow for earned sick time hours to be paid out instead of carried over | |

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| Unclear how earned sick time is tracked | |
| Only allows earned sick time to count toward the max 72 hours | allows all vacation and sick time to be combined - does not include paid holidays |
| If choosing to combine earned sick time and vacation into paid time off (PTO), all hours will be subject to the recordkeeping and regulations of ESTA including cause of action, notification requirements and record keeping | allows PTO frontloaded without regulatory issues |
| For employees paid a variable wage, the "normal hourly wage" means the average hourly wage of the employee in the pay period immediately prior to the pay period in which the employee used paid earned sick time | specifies base wage or minimum wage, whichever is higher - DOES NOT include bonuses, tips, holiday pay, commissions, etc. |
| States that earned sick time can be used in the smaller increment of either hourly or the smallest increment that the employer's payroll system uses to account for absences or use of other time. | hourly is the lowest increment allowed unless employer allows less |
| Health care providers required for documentation is broadly defined as anyone licensed by state or federal government to provide health care services | no changes |
| Allows employers to require documentation after 3 consecutive days off, but requires employers to pay all costs associated with obtaining the documention and does not allow a time limit for employees to provide documentation | no changes |
| Does not address FMLA or ADA and whether earned sick time can run concurrent | indicates can run concurrent with FMLA |
| Requires an employer to reinstate unused sick leave of an employee who is rehired after six months of separation and allows the employee to begin using the sick leave immediately | Employer only has to reinstate after 2 months - if employer has not paid out ESTA - then no reinstatement |

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| Employer is prohibited from requiring a replacement worker if using earned sick time | no changes |
| Any disciplinary actions against employees using earned sick time, communicating with other employees regarding ESTA, filing a complaint, etc. is considered retaliatory and prohibited in ESTA. Employers will be considred in violation of ESTA unless they can prove otherwise. | while there is anti-retaliatory language - presumption of guilt has been removed; department can investigate and levy fines |
| Allows employees who feel their rights have been violated to directly sue employers | ability for employee to sue has been removed |
| Allows employees to file a complaint up to three years after the violation | no changes |
| New employees begin accruing earned sick time at time of hire, but employers are not required to allow usage until 90 days after hire | changed to 120 days |
| Outlines uses for earned sick time including illness of self, family members, sexual and domestic abuse | no changes |