

# CLIENT ALERT

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## Tick Tock – Michigan Employers Are on the Earned Sick Time Clock

by *Christy K. McDonald and Lina R. Delmastro*

Michigan employers (and employment lawyers) are biting our nails while we await court action relative to the original Michigan Improved Workforce Opportunity Wage Act (IWOWA) and Michigan Earned Sick Time Act (ESTA). These laws, which provide generous benefits to employees, are set to go into effect on February 20, 2023, *unless* Michigan courts delay them or hold them unenforceable.

If your business employs people in Michigan, you should have a plan to become compliant with these laws in advance of the February 20, 2023 effective date.

If not further delayed or voided, the Michigan Improved Workforce Opportunity Wage Act will set Michigan's minimum wage at \$13.03 per hour and set a minimum wage for tipped employees at \$11.73 per hour, among other changes.

If not further delayed or voided, the Michigan Earned Sick Time Act will require all employers in Michigan to provide at least 72 hours of sick leave to every employee in Michigan (including exempt, non-exempt, full-time, part-time, occasional, temporary, etc.) For "small employers" (with fewer than ten employees), at least 40 of those 72 hours must be paid, and 32 hours may be unpaid. All employers with ten or more employees, all 72 hours must be paid.

ESTA Highlights include:

- Paid sick leave, if accrued, must be accrued at 1 hour for every 30 hours worked
- Paid sick leave may be used in the smaller of an hourly increment or the increment an employer uses to count time (often by the minute)
- PTO may satisfy the paid sick leave obligation if certain conditions are met
- Employers can require at least seven days advance notice for foreseeable paid sick leave
- Employers can require documentation for use of paid sick leave *only* if the leave is for three consecutive days or longer
- Employers do not have to pay unused paid sick leave to employees on termination of employment
- Employees can sue their employers directly for violations of ESTA – and they could recover liquidated damages, costs, and their attorneys' fees

Please note that this Client Alert is not a comprehensive analysis of these laws and does not replace legal counsel. We encourage you to contact a Dickinson Wright employment attorney to learn how these Michigan laws apply to you and your business.

## ABOUT THE AUTHORS



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