

## Michigan's Earned Sick Time Act – Legislative Update

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There are only 36 days before the Earned Sick Time Act (ESTA) takes effect on February 21, 2025. Presently, both the state House and Senate have introduced bills to amend the ESTA. The House acted quickly convening a committee to hear testimony on House Bill 4002 and proposed amendments to the minimum wage law (HB 4001). Varnum's Labor and Employment team has been closing monitoring the progress of these amendments.

Varnum attorney Ashleigh Draft testified before the House Select Committee on Protecting Michigan Employees and Small Businesses in support of House Bill 4002. To date, the Senate has not yet convened a committee to discuss the Senate Bill. A summary of both the House and Senate bills follow:

### House Bill (HB 4002)

The House Bill includes crucial amendments to make the Act more workable for both employees and employers, including:

- Clarifies the definition of employees eligible for the benefits of the ESTA. Independent contractors, out of state employees, seasonal workers (working 25 weeks or less in a year), part-time employees (working 25 hours or less per week) and variable hour workers are not eligible for benefits under the Act.
- Exempts small businesses (employers with less than 50 employees) from ESTA.
- Employers may limit increment of use to 1 hour.
- Retains the accrual method of 1 hour for every 30 hours worked, with usage capped at 72

hours per year, and limiting carryover to 72 hours.

- Recognizes that employers that frontload 72 hours per year are in compliance with the Act and **do not** need to carryover time from one benefit year to the next.
- Permits employers to provide a single PTO bank that can be used for all purposes including ESTA.
- Allows employers to require employees to take ESTA time concurrently with FMLA, ADA or any other applicable law.

## **Senate Bill (SB 15)**

The bill pending in the Senate proposes the following amendments:

- Defines small business as an employer with fewer than 25 employees.
- Allows small businesses to frontload 40 hours of paid and 30 hours of unpaid earned sick time at the beginning of the year.
- Employers may limit increment of use to 1 hour.
- Retains the accrual method of 1 hour for every 30 hours but permits frontloading of 72 hours as an alternative to the accrual method, while retaining the carryover from year to year.
- The amount of accrued sick time that an employee may carry over from year to year may be limited to 144 hours if the employer pays the employee the value of the employee's unused sick time before the end of the year. If the employer does not pay out the value of the employee's unused sick time, carryover may be capped at 288 hours.

*Charlotte E. Jolly contributed to this article*

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