



## What Missouri Employers Need to Know about Missouri's Earned Paid Sick Leave

Most Missouri employers are just weeks away from being required to provide paid sick leave to their employees. Following the passage of Proposition A in November's election, Missouri law will now require most private employers to allow all employees to accrue and use sick leave beginning May 1, 2025. While there are still a variety of legal challenges pending (explained in more detail below) to the law, employers should begin preparing now in case the law goes into effect as written.

### *April 15 Notice Requirements*

The first sick leave deadline employers are facing is April 15, 2025. On or before that date, Missouri employers subject to the earned paid sick time law must do the following:

1. Display a poster about Missouri's Earned Paid Sick Leave. The Missouri Department of Labor (MDOL) has provided a PDF of the poster that should be displayed. It can be found [here](#).
  - The poster should be displayed where the employer's other employment posters (i.e., FLSA, workers' compensation) are located.
2. Provide written notice to its employees about the earned paid sick leave benefits. The MDOL has also provided a template of this written notice, which is available [here](#).
  - The written notice must be provided to employees on a single piece of 8.5x11 paper in no less than 14-point font. Because the notice requirement references a single piece of 8.5 x 11 paper, it is at least in question whether providing the notice via email or other electronic means would be sufficient. The prudent action for employers is to provide each employee with a physical piece of

paper.

### *May 1 Requirements*

Barring a decision from the Missouri Supreme Court or significant action by the Missouri legislature, the law will go into effect on May 1. On that date, employers will need to begin allowing employees to accrue earned paid sick leave. Certain governmental employers and extremely small businesses are exempted from the law. These exemptions are limited to federal and state government; political subdivisions, including agencies, boards, commissions, or instrumentalities of the state, counties, municipalities, school districts, and public higher education institutions; and private employers whose gross volume sales made or business done is less than \$500,000.

Assuming no changes, key questions employers may have include:

- How do employees earn sick leave?
  - All employees shall accrue one hour of earned paid sick time for every 30 hours worked. The hours do not need to be consecutive or worked in a week. Part-time employees also accrue earned paid sick time, regardless of how limited the employee's schedule is.
  - Salaried-exempt employees will be assumed to have worked 40 hours in each work week (unless their normal hours worked are less than 40 hours per week).
- What can the earned paid sick time be used for? Earned Paid Sick Time can be used for:
  - The employee to care for their own mental or physical illness, injury, or health condition, or the for the mental or physical illness, injury, or health condition of a family member (which is defined broadly);
  - For purposes of seeking preventive health care for the employee or a family member, even if the individual seeking preventative care is not sick;
  - For business closures during certain public health emergencies; or
  - For specific domestic violence, sexual assault, or stalking reasons.
- How much sick leave can employees earn/use?

- For employers with less than 15 employees, their workers are entitled to use no more than 40 hours of paid sick time per year.
- For employers with more than 15 employees, their workers are entitled to use no more than 56 hours of paid sick time per year.
- While there is a limit on how many hours of sick leave employees are entitled to use, the law does not limit how many hours employees can accrue.
- Are employees entitled to roll over sick leave hours?
  - As with many things with this new sick leave entitlement, it depends. At the end of the 12-month accrual period, employees are entitled to roll-over up to 80 hours of unused earned paid sick time into the next 12-month period. Alternatively, employers can pay out up to 80 hours of the employee's earned paid sick time at the end of each 12-month period in lieu of allowing the employee to roll-over sick time. If the employer chooses the pay-out in lieu of roll over option, the employer is required to front load the employee's earned paid sick time and make that time available to use at the outset of the next 12-month period.
- Our company already has a robust PTO policy that provides employees with more leave than the sick leave law requires. Our PTO policy anticipates that employees will use that PTO for sick leave purposes. Is our PTO policy sufficient to comply with the new sick leave law?
  - Most likely, yes, an existing paid leave policy will be considered compliant if it makes available to employees an amount of paid leave sufficient to meet the accrual requirements and so long as that leave may be used for the same purposes and under the same conditions as defined under Missouri's Earned Paid Sick Time law.
  - It is important to review your PTO policy and consider the requirements of the new law, including but not limited to the following considerations: (1) Does it have a waiting period for use or provide PTO at the outset of employment? Employees are entitled to use sick leave when accrued. (2) Does your current policy allow for roll over or pay out in lieu of roll over? (3) Does your company's current PTO policy require all absences to be scheduled with a supervisor in advance? A compliant policy will need to anticipate absences that are unforeseeable. (4) Does your company's PTO policy include part-time

employees? If not, you will either need to allow part-time employees to participate in your current PTO policy or create a separate sick-leave policy that is compliant with the new law for employees who are not eligible for your company's PTO policy.

- The anti-retaliation provisions in the law are very broad, can employers still enforce attendance policies?
  - Yes, employers can still require employees to adhere to attendance policies, as long as the employees are not punished for using paid sick leave and otherwise comply with the written policy requirements of the law.
  - Note: Employers with no fault attendance policies (and other robust attendance policies) should review their policies with legal counsel for compliance with the Earned Paid Sick Time law. The law specifically prohibits employers from counting earned paid sick time taken by an employee as an absence that may lead to any adverse action.
- My employee is taking sick leave but I don't believe they are sick. What can I do?
  - Unfortunately, not much. Under the law as written, unless they use the paid sick leave for three or more consecutive days, employers are not allowed to require medical notes or documentation to prove the need for the paid sick leave.
- Holidays are our biggest days of the year. Can we prohibit employees from using paid sick leave on the Fourth of July or other major holidays?
  - No. Employees cannot suffer any adverse employment actions as a result of their use of paid sick leave, and there are no restrictions on when the sick leave can be used (outside of the requirement that employees provide advance notice of foreseeable leave).

Finally, all of this is subject to change at a moment's notice. The Missouri Chamber of Commerce and other business associations filed a lawsuit challenging the constitutionality of the law, and the Missouri Supreme Court may issue a decision at any time invalidating some or all of the law (or affirming it in whole).

Likewise, the Missouri Legislature is considering a bill which would completely repeal and eliminate the new paid sick leave law. However, the current bill does not contain an emergency clause, which means that if it passes as is, the paid sick leave law will

go into effect on May 1, 2025, and remain in effect until August 28, 2025. As a result, there is a very real possibility that this law will go into effect on April 15 (notice requirements) and May 1 (accrual requirements) and then go away by the end of August if a repeal passes and is signed into law by the Missouri Governor.

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