

# Northern New England

## MONDAY MORNING MINUTE

December 15, 2014

### Massachusetts Voters Approve Paid Sick Leave

*Voters in the Commonwealth of Massachusetts have approved a ballot measure requiring Massachusetts employers to provide up to 40 hours of sick time each calendar year to all employees.*

For Massachusetts employers with 11 or more employees, sick time must be paid; for employers with 10 or fewer employees, the sick time may be unpaid. This new sick time law is effective July 1, 2015. Employers should review their current leave policies or prepare new policies to address this new sick time requirement before its effective date.

The law has an expansive definition of “sick time.” It covers employees who need time (1) to care for the employee’s child, spouse, parent, or parent of a spouse who is suffering from a physical or mental illness, injury or medical condition that requires homecare, professional medical diagnosis or care, or preventative medical care, or (2) to care for the employee’s own physical or mental illness, injury or medical condition that requires homecare, professional medical diagnosis or care, or preventative medical care, or (3) to attend the employee’s routine medical appointments or the routine medical appointments for the employee’s child, spouse, parent, or parent of a spouse or address the psychological, physical or legal effects of domestic violence.

Under the law, employers are required to provide a minimum of one hour of earned sick time for every 30 hours worked by an employee. Employees begin to accrue the earned sick time commencing on the date of their hire (or, for current employees, the effective date of the law, July 1, 2015), but they are not entitled to use their accrued sick time until the 90th calendar day following their hire date.

The law caps the amount of sick time earned in a calendar year at 40 hours. Employees may carry over up to 40 hours of unused earned sick time to the next calendar year, but employees are not entitled to use more than 40 hours of sick time in one calendar year. Moreover, employers are *not* required to

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pay out unused earned sick time upon separation from employment (as opposed to earned but unused vacation pay, which must be paid out upon separation).

The law also states that employers who provide paid time off to employees under a paid time off, vacation or other paid leave policy that provides for the same or better accrual for reasons covered by the new law are *not* required to provide additional earned paid sick time. Employers with PTO or sick time policies who will continue those policies, therefore, should review their policies to determine if such policies comply with the new law.

The law empowers the Massachusetts Attorney General's Office to enforce its provisions, but also provides for a private right of action by aggrieved individuals. The private right of action provision provides for the recovery of mandatory triple damages and attorneys' fees.

In addition, the law requires the Attorney General's Office to prepare a workplace poster advising employees about the new law and to adopt rules and regulations regarding earned sick time, including regulations on employer obligations to make, keep, and preserve records regarding earned sick time. We anticipate the Attorney General's Office will adopt these rules and regulations in the coming months.

Employers in Massachusetts should review their leave policies, including those that provide for paid time off, to ensure compliance prior to the July effective date.

*Your Jackson Lewis attorney can answer questions regarding this and other employment law issues.*



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