



On July 31, 2024, Michigan Supreme Court made the decision to reinstate the Earned Sick Time Act (ESTA) and Improved Workforce Opportunity Wage Act (IWOWA). On February 21, 2025, the date the act was supposed to take effect, Governor Whitmer signed House Bill 4002 and Senate Bill 8 which amended the act and extended the deadline to give employers 30 days to provide employees notice concerning their rights and obligations under ESTA. While many of the details are still coming in, below is a summary of how things currently stand. This is intended to be an informational resource and not legal advice, please contact your legal and financial advisors with any questions.

Updated 2/27/2025

All employers must post posters consistent with the amended ESTA and provide written notice to employees as required, no later than March 23, 2025. Details of the Act are below.

- ESTA covers all Michigan employees with the following exceptions:
 - Those who work under a policy that allows them to set their own hours, with a provision preventing the employer from taking adverse action if the individual does not meet a minimum number of working hours;
 - Unpaid trainees or interns;
 - Individuals employed under the Youth Employment Standards Act, MCL 409.101-.124;
 - Individuals employed by the United States government

** Prior to the amendment of the bill, the Act specifically listed non-profits as included employers. While that language has been removed in the amended bill, legal review has concluded that non-profits are still included in ESTA.*
- “Small business” is defined by an employer for which 10 or fewer individuals work during a given week. This includes full time, part time, and temporary workers. *
- *NOTE: Small businesses were given an extension that does not require them to start accruing, tracking, or providing earned sick time until October 1, 2025. However, posting of ESTA posters and providing employees with written notice of the policy is still required by March 23, 2025.*

**NOTE: Small businesses that did not employ an employee on or before February 21, 2022, are not required to comply with this Act until 3 years after the date the employer first employs an employee.*
- “Benefit year” is defined as any consecutive 12-month period used by an employer (e.g., calendar year, employment year, etc.).
- Accrual rate - 1 hour of earned sick time for every 30 hours worked, not including PTO or EST.
- Usage Caps – Employers can limit the amount of paid sick time per benefit year:
 - Large employers (11+ employees) – limit of 72 hours
 - Small employers (1-10 employees) – limit of 40 hours paid sick time, no unpaid leave requirement*
 - *Prior to the amendment of the bill the act required small employers to provide 32 hours of unpaid leave – this has been removed as of 2/21/25.*
 - Earned Sick Time can be used in one hour increments or the smallest increment that the businesses payroll system can measure.
 - Employers may choose to set higher limits than the minimums required by ESTA.

- Frontloading – As an alternative to accrual of paid earned sick time, employers may choose to frontload EST hours at the beginning of a year for immediate use.
 - For small businesses that means providing full-time employees with 40 hours at the start of the year and for large businesses 72 hours.
 - To frontload hours for part-time employees, the following requirements apply:
 1. Give written notice of the number of expected hours for the year when hired;
 2. Provide at least as much as they would earn on accrual (using 1 hour per 30 hours worked formula);
 3. Look back to see if the employee worked more hours than originally expected and add additional hours later in the year.
- Waiting period – Small and large businesses may implement a 120-day waiting period for new employees hired after the 2025 amendatory act to use earned sick time. *

**Prior to the amendment of the bill ESTA had allowed a 90-day waiting period that has since been increased to 120 days.*

- Carryover – EST does carry over year-to-year, but with limits*
 - Small businesses can limit carryovers to 40 hours
 - Large businesses can limit carryovers to 72 hours

**If employers choose to front load hours instead of accruing, carry over is not required.*

- Rate of Pay – Paid earned sick time should be at a pay rate equal or greater than their normal hourly wage. This does not need to include overtime pay, holiday pay, bonuses, commissions, supplemental pay, piece-rate pay, tips, or gratuities.
- Qualified Reasons for Leave – Employers of any size business are required to allow employees to use EST accrued or provided for any of the following purposes:
 - The employee’s mental or physical illness, injury, or health condition: medical diagnosis, care, or treatment or preventative medical care for the employee;
 - For the employee’s family member’s mental or physical illness, injury or health condition: medical diagnosis, care, or treatment or preventative medical care for the family member of the employee;
 - If the employee or employees family member is a victim of domestic violence or sexual assault, for medical care or psychological or other counseling for physical or psychological injury or disability, to obtain services from a victim services organization, to relocate due to domestic violence or sexual assault, to obtain legal services, or to participate in any civil or criminal proceedings related to or resulting from the domestic violence or sexual assault;
 - For meetings at a child’s school or place of care related to the child’s health or disability, or the effects of domestic violence or sexual assault on the child;
 - For closure of the employee’s place of business by order of a public official due to a public health emergency, for an employee’s need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency, or when it has been determined by the health authorities having jurisdiction or by a health care provider that the employee’s or employee’s family member’s presence in the community would jeopardize the health of others because of the employee’s or family member’s exposure to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease.

- Employee Notice of Use of Earned Sick Time – In the case of foreseeable events employees may provide up to 7 days' advance notice. For non-foreseeable events employers may require employees to give notice in one of the following ways:
 - As soon as practicable, or
 - According to the employer's policy on requesting or using sick time or leave, provided that: the employee receives a written copy of the policy, including the procedure for providing notice, either on the date of hire or the effective date of HB 4002 (whichever is later), and the policy allows employees to provide notice after becoming aware of the need for sick time.*

**An employer cannot require an employee to search for or secure a replacement worker as a condition for using earned sick time.*

- Documentation Requirements - An employer may require an employee to provide documentation related to the earned sick time taken, but only after three consecutive days off and within 15 days of the request.
- Recordkeeping – Employers must retain records for 3 years. Failure to maintain records creates the presumption that the employer violated ESTA.
- Enforcement – The Department of Labor and Economic Opportunity (LEO) is responsible for enforcing ESTA. Employees may file a claim with LEO, with a statute of limitations of 3 years. The Director of LEO may bring a civil action on behalf of a complaining employee if enforcement is required.
- Retaliation – The bill prohibits employer's retaliation in response to an employee exercising or attempting to exercise any right protected under this act. Employers can however take adverse personnel action against an employee who fails to follow the employer's notification policy or misuses the benefit.
- Pay-Out/Reinstatement of EST – Employers are not required to provide financial or other reimbursement to an employee for accrued earned sick time that was not used upon the employee's termination, resignation, retirement, or other separation from employment. If an employee is transferred but remains employed by the same employer, they may use all previously accrued sick time. If an employee separates from employment and is rehired by the same employer not more than 2 months after the separation, the employer needs to reinstate previously accrued and unused sick time and be allowed to begin accruing additional time upon reinstatement.
- Existing PTO Policies – Employers can use a combined paid time off (PTO) policy to meet ESTA requirements, as long as the total paid leave meets or exceeds the necessary amounts and may be used for the same purposes.
- Collective Bargaining Agreements (CBAs) – If employees are covered by a CBA at the time the Act went into effect on February 21, 2025, and the CBA conflicts with the Act, then ESTA applies beginning on the stated expiration date in the CBA, notwithstanding any statement in the agreement that it continues in force until a future date or event or the execution of a new CBA. When negotiating the next CBA, keep in mind that ESTA and IWOWA are minimums, and your CBA cannot go below them.

Resource Links:

Department of Labor and Economic Opportunity [ESTA Information](#) and [ESTA FAQ](#)

QuickBooks Accrued Time Tracking [How To](#)

Small Business Development Center ESTA Compliance Purchasable [Toolkit](#)

Copy of [House Bill No. 4002](#)

Information gathered from Warner Norcross + Judd, FosterSwift, Small Business Association of Michigan, Michigan Department of Labor and Economic Opportunity, Michigan Chamber of Commerce, and House Bill No., 4002.