

Bodman PLC

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Michigan's Earned Sick Time Act: A Legislative Update

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Michigan's Earned Sick Time Act ("ESTA") will become effective on February 21, 2025. Last minute bills have been introduced by both the House and Senate, designed to address serious issues ESTA presents to Michigan employers. On Wednesday, January 8, 2025, the first day of the 103rd Michigan Legislature, the Senate introduced a bill to modify ESTA. The very next day, the House introduced its own bill.

The most significant changes proposed by Senate Bill 15:

- "Small business" changed from less than 10 employees to less than 25 employees.
- Caps accrued hours at 288 hours. If an employer pays out the value of employees' unused EST, then the carry-over requirement can be capped at 144 hours.
- An employer may pay out unused time at the end of the year to avoid carryover.
- If using accrual method, an employer can cap usage to 72 hours per year and limit carryover to 72 hours.
- Permits a 90-day waiting period for new hires to begin using time that's accrued if hired "after the effective date of the 2025 amendatory act that amended this section."
- Strikes rebuttable presumption and the private right of action.
- One year statute of limitation.

The most significant changes proposed by House Bill 4002:

- Exempts independent contractors, out of state employees, seasonal workers (25 weeks or less per year) part-time employees (25 hours or less per week), and variable hour workers.
- Exempts small businesses (50 employee threshold).
- Allows for payout of accrued but unused time to avoid carryover.
- Allows frontloaded time with no carryover and no tracking requirement.
- Allows one PTO/ESTA bank and eliminates the language requiring all time be used "under the same conditions" as the ESTA time.

- Clarifies that the rate of pay does not include overtime pay, holiday pay, bonuses, tips, commissions, etc.
- Permits employers to set “usual and customary notice, procedure, and documentation requirements” and take appropriate disciplinary action.
- Defaults to one hour use increment.
- Strikes rebuttable presumption and private right of action.

Whether the Legislature will pass a bill, or a modified version of one of these bills, in advance of ESTA’s effective date remains unknown. We will continue to provide updates as they become available. Stay tuned.

Please contact any member of [Bodman’s Workplace Law Group](#) if you have questions regarding any of the information provided above. Bodman cannot respond to your questions or receive information from you without establishing an attorney-client relationship and clearing potential conflicts with other clients. Thank you for your patience and understanding.

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