




# **ESTA Policy Implementation**

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-  West Michigan based with national reach
-  Community of fractional HR professionals
-  We provide talent when and where you need it



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 youth solutions

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**By working with us, you're investing in something bigger.**

Kinexus Group has a family of nonprofit organizations that connect people, resources, and organizations with services that make Michigan, a great place to do business.

# Agenda

- What is ESTA and how does it apply to you?
- Small business application
  - Policy Specifics
  - Real World Learnings
  - Compliance Tips for Employers
  - Communication and Training
- Q&A

Note: We are **not** attorneys. Your policies should be reviewed by your retained attorney, or your board.

# Earned Sick Time Act

- The original Earned Sick Time Act (Act 338 of 2018) required certain employers to offer earned sick time and prohibited retaliation.
- In July 2024, the Michigan Supreme Court invalidated the amended Paid Medical Leave Act and reinstated the original Earned Sick Time Act.
- Large businesses are considered 11+ employees
- Small businesses are considered 1-10 employees
- Once an employer employs 11 or more employees for 20 or more workweeks in the calendar year, the employer is no longer a "small business."

# Calculations & Eligibility

- All W2 employees are included in the count and are eligible for ESTA
  - Full-time, part-time, and temporary/seasonal employees
  - Owners who are W2 employees
- Independent contractors are not included in the count and are not eligible for ESTA.

## Effective Dates

- Large Business: February 21, 2025
- Small Business: October 1, 2025



# Accrual Method

**Accrual rate** = 1-hour of earned sick time per 30 hours worked

## Usage Caps

- Small businesses (<10 employees): Up to **40 hours paid**, plus the option of the employer for 32 hours unpaid if accrued
- Large businesses: Up to **72 hours paid** per year (employers may allow more)

## Carryover

- Small businesses: up to 40 unused hours can be carried over
- Large businesses: up to 72 unused hours carry over
- Usage caps still apply year to year

## Waiting Period

- Employers using accrual can require new hires to wait up to 120 days before using leave

# Frontloading Method

- Employers may provide full annual allotment at the start of the benefit or calendar year.
  - Small businesses (<10 employees): 40 hours
  - Large businesses: 72 hours
- Frontloading avoids:
  - Carryover
  - Tracking accrual
- Hours must be available for immediate use (no waiting period).



# Usage and Increments

## Notice Requirements

- Foreseeable leave: employer may require up to 7 days' advanced notice.
- Unforeseeable: notice “as soon as practicable”

## Documentation

- Employers may require “reasonable documentation” for absences over 3 consecutive days

## Usage Increments

- Minimum of 1-hour increments or smallest increment used by employer

## Rate of Pay

- Paid leave is at the higher of employee’s base wage or minimum wage, excluding premiums or tips

## Rollover vs Payout

- Employers using the frontloading method are not required to pay out or rollover unused sick time
- Employers using the accrual method have the choice to either pay out or rollover unused sick time

## Reinstatement

- Rehired employees within 2 months retain accrued time, unless the employer elected to pay out the remaining unused sick time

# ESTA in the Real World

- Different approaches for different classifications
- Changing from accrual to frontloading, and why
- ESTA policy may impact other policies
- Practice agility with structural changes



# Compliance Tips for Employers

- Update policies to align with ESTA.
- Choose accrual or frontload based on administrative and financial preference.
- Implement reliable tracking systems if using accrual.
- Post required notices in English, Spanish, and applicable languages (right)
- Train managers and HR on notice, documentation, and non-retaliation rules.
- Review PTO policies to ensure they meet or exceed ESTA requirements



GRETCHEN WHITMER  
GOVERNOR

Michigan Department of Labor & Economic Opportunity

Wage and Hour Division

PO Box 30476

Lansing, MI 48909-7976

REQUIRED POSTER



SUSAN CORBIN  
DIRECTOR

**GENERAL REQUIREMENTS – EARNED SICK TIME ACT\***

Your employer's 'year' for the purposes of the Earned Sick Time Act is: \_\_\_\_\_

**Earned Sick Time Accrual**

Number of Employees	Minimum Accrual	Minimum Paid Sick Time	Unpaid Sick Time
Less than 10 employees	1 hour for every 30 hours	40 hours in a year	32 hours (if more than 40 accrued)
10 or more employees	1 hour for every 30 hours	72 hours in a year	

- Earned sick time shall carry over from year to year, a business with less than 10 employees is not required to permit an employee to use more than 40 hours of paid earned sick time and 32 hours of unpaid earned sick time in a single year, employers with 10 or more employees are not required to permit an employee to use more than 72 hours of paid earned sick time in a single year.
- Earned sick time shall begin to accrue on the effective date of this law, or upon commencement of the employee's employment, whichever is later.
- An employee may use accrued earned sick time as it is accrued.
- An employer is in compliance with the act if it provides any paid leave in at least the same amounts as that provided under this act that may be used for the same purposes and under the same conditions provided in this act and that is accrued at a rate equal to or greater than the rate described in subsections (1) and (2) of Section 3 of the act. Paid leave includes, but is not limited to, paid vacation days, personal days, and paid time off.

**Earned Sick Time Uses**

- An employer shall permit an employee to use the earned sick time accrued for any of the following:
- The employee's or the employee's family member's mental or physical illness, injury, or health condition; medical diagnosis, care, or treatment of the employee's mental or physical illness, injury, or health condition; or preventative medical care for the employee.
  - If the employee or the employee's 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; or
  - 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.
  - An employer shall not require an employee to search for or secure a replacement worker as a condition for using earned sick time.

**Exercise of Rights**

- An employer or any other person shall not interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this act.
- An employer shall not take retaliatory personnel action or discriminate against an employee because the employee has exercised a right protected under this act. "Retaliatory personnel action" means any of the following:
  - Denial of any right guaranteed under this act.
  - A threat, discharge, suspension, demotion, reduction of hours, or other adverse action against an employee or former employee for exercise of a right guaranteed under this act.
  - Sanctions against an employee who is a recipient of public benefits for exercise of a right guaranteed under this act.
- An employer's absence control policy shall not treat earned sick time taken under this act as an absence that may lead to or result in retaliatory personnel action.

**Complaint Filing**

- An employee affected by an alleged violation, at any time within 3 years after the alleged violation or the date when the employee knew of the alleged violation, whichever is later, may do any of the following:
- Bring a civil action for appropriate relief, including, but not limited to, payment for used earned sick time; rehiring or reinstatement to the employee's previous job; payment of back wages; reestablishment of employee benefits to which the employee otherwise would have been eligible if the employee had not been subjected to retaliatory personnel action or discrimination; and an equal additional amount as liquidated damages together with costs and reasonable attorney fees as the court allows.
  - File a claim with the department, which shall investigate the claim. Filing a claim with the department is neither a prerequisite nor a bar to bringing a civil action.

\*For precise language of the statute, see Public Act 338 of 2018, as amended


# Communication and Training

<b>Leadership Team/Consulted Decision Makers</b>	<b>Middle Managers / Stakeholders</b>	<b>Employees</b>	<b>Reference Tool</b>	<b>Training</b>
<ul style="list-style-type: none"><li>• Involvement in developing the strategy</li></ul>	<ul style="list-style-type: none"><li>• Involvement in developing administrative</li></ul>	<ul style="list-style-type: none"><li>• Informed of policy and process</li></ul>	<ul style="list-style-type: none"><li>• Document in SharePoint (or other shared filing system)</li><li>• Handbook policy</li><li>• Physical posters/infographics in office/facility</li></ul>	<ul style="list-style-type: none"><li>• Managers need thorough understanding of the policy and administrative process.</li><li>• Employees need to understand the policy and where to direct questions.</li></ul>

# Questions? Let's Connect!




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