

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:

(a) 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.

(b) 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.

Visit www.michigan.gov/wageclaim to file a claim with the Wage and Hour Division.

If a violation is found and the claim cannot be informally resolved, the Wage and Hour Division will issue a written determination that the employee or employer may appeal. If appealed, a hearing before an administrative law judge (ALJ) will be scheduled. The employer and employee are expected to attend the administrative hearing to provide evidence and give testimony regarding the claim. The ALJ may affirm, modify or reverse the department's determination.

Employee

An employee is an individual engaged in service to an employer in the business of the employer, except that employee does not include an individual employed by the United States government.

Employer

Employer means any person, firm, business, educational institution, nonprofit agency, corporation, limited liability company, government entity, or other entity that employs one or more individuals, except that employer does not include the United States government.

Contact Information

This brochure is intended for general information only. It does not include all of the provisions of Public Act 338 of 2018, as amended.

For information on the laws administered by the Wage and Hour Division contact:

Department of Labor & Economic Opportunity

Wage and Hour Division

Stevens T. Mason Building
530 W. Allegan St. Lansing, MI 48933
517-284-7800

Southeast Michigan

3026 W. Grand Blvd., Suite 9-450
Detroit, MI 48202

Mailing Address:

PO Box 30476
Lansing, MI 48909-7976

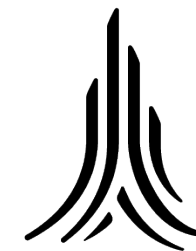
Overnight Mailing Address:

2407 N. Grand River
Lansing, MI 48906

Toll Free: 1-855-4MI-WAGE
(1-855-464-9243)

Website: www.michigan.gov/wagehour

An Overview of the Earned Sick Time Act Public Act 338 of 2018 (ESTA)



MICHIGAN DEPARTMENT OF
**LABOR & ECONOMIC
OPPORTUNITY**

Department of Labor & Economic
Opportunity

Wage and Hour Division

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www.michigan.gov/wagehour

Earned Sick Time Accrual Amount

Earned Sick Time accrual:

- Employees shall accrue a minimum of 1 hour of earned sick time for every 30 hours worked.
- An employer with less than 10 employees; an employee shall not be entitled to use more than 40 hours of paid earned sick time in a year unless the employer selects a higher limit.
- An employer with 10 or more employees; an employee shall not be entitled to use more than 72 hours paid earned sick time per year unless the employer selects a higher limit.
- Earned sick time shall carry over from year to year, but an employer 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, and 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.
- An employer is in compliance with this act if the employer 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 this act. Paid leave includes but is not limited to paid vacation days, personal days, and paid time off.

Earned Sick Time Hours

- Earned sick time must be used in 1-hour increments unless the employer has a different increment policy and the policy is in writing in an employee handbook or other employee benefits document.
- This act does not require an employer 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.
- An employer shall pay each employee using paid medical leave at a pay rate equal to the greater of either the normal hourly or base wage for that employee or the minimum wage established under the Improved Workforce Opportunity Wage Act, 2018 PA 337, as amended.
- An employer shall not require an employee to search for or secure a replacement worker as a condition for using earned sick time.

Earned Sick Time May Be Used For

- 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 eligible employee's mental or physical illness, injury, or health condition; or preventative medical care for the eligible employee.
- 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.

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.
 - Interference with, or punishment for, an individual's participation in any manner in an investigation, proceeding, or hearing 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.