

EARNED SICK TIME ACT AND IMPROVED WORKFORCE OPPORTUNITY WAGE ACT

AUGUST 2024 QUICK REFERENCE GUIDE

The Alliance participated in a webinar for UP Economic Developers by Varnum, LLP regarding the changes coming to small businesses as it pertains to the Earned Sick Time Act (ESTA) and Improved Workforce Opportunity Wage Act (IWOWA) laws.

The information below is a summary of the presentation by Stephanie Settington of Varnum, LLP.

This should not be used as legal advice or in place of working with your attorney.

The Alliance is available to help businesses connect with attorneys and CPAs to help ensure compliance is met by the February 21, 2025, deadline.

Background

In 2018, the Earned Sick Time Act and Improved Workforce Opportunity Wage Act were citizen-initiated ballot initiatives that voters approved in the statewide election. The Legislature adopted the measures and immediately voted to amend them. Paid Medical Leave Act (PMLA) and the 2019 Minimum Wage Act were the result.

On July 31, 2024, the Michigan Supreme Court ruled the Legislature violated the Michigan Constitution when amending the ballot initiatives and reinstated the original ballot proposed wording and timelines.

What does this mean for Small Businesses?

PMLA will be replaced by ESTA by February 21, 2025. All businesses must be compliant with written compliance policies by that time.

The 2019 Minimum Wage Act will be replaced by IWOWA by February 21, 2025. All businesses must be compliant with written compliance policies by that time. IWOWA will have an altered schedule of wage increases and tip credit payouts due to the timing of the ruling.



EARNED SICK TIME ACT

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Earned Sick Time Act (ESTA): What are the changes from PMLA?

ESTA defines a small business as having fewer than 10 individuals working for compensation in a week. This includes workers engaged as contractors or through a staffing agency, part-time, full-time, temporary, and excludes any business that had 10 or more employees on payroll for at least 20 weeks in the current or preceding calendar year.

PMLA

- Covered only MI employers with 50 or more employees
- Covered only nonexempt employees in MI working more than 25 hours per week and contains several exceptions
- Defined by whether the worker is on the employer's payroll
- Requires employers to accrue or grant up to 40 hours of earned sick time/year
- Accrual rate: 1 hour for every 35 hours worked – capped at 1 hour per week
- Carryover of up to 40 unused hours
- Must allow employees to use up to 40 hours paid sick time per year.

ESTA

- Covers **all** MI employers except federal government
- Covers **all** employees working in MI without regard to classification or type, or hours (seasonal, exempt, etc.)
- Defined by **“service to employer”** in “business of employer”
- Requires employers to accrue **up to 72 hours** of earned sick time per year
- Accrual rate: 1 hour for every **30** hours worked – no cap per week
- Carryover of **all** hours required, **no cap**
- Must allow employee to use up to **72 hours** of paid sick time per year
- “Small” businesses with fewer than 10 employees* can provide only 40 paid hours paid but must allow up to the additional 32 unpaid.

ETSA Questions

It is expected that the State of Michigan Licensing and Regulatory Affairs (LARA) will be providing more guidance in the coming weeks.

Some areas of ambiguities include:

- Who counts as an employee?
- When considering family members, what are the limits of closely associated?
- Can an existing policy satisfy ESTA?
- How will PMLA time be treated upon transition to ESTA?



IMPROVED WORKFORCE OPPORTUNITY WAGE ACT

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Improved Workforce Opportunity Wage Act (IWOWA): What are the changes from the 2019 Minimum Wage Act?

Provisions in effect since 2019

Scheduled Minimum Wage Increases

- March 2019: \$9.45
- 2020: \$9.65
- 2021: \$9.87
- 2022: \$9.87**
- 2023: \$10.10
- 2024: \$10.33
- Additional scheduled increases to achieve \$12.05 by 2030

Tip Credit Wage

- Tip credit wage will be 38% of state minimum wage
- 2024: \$3.93

IWOWA Ballot

Scheduled Minimum Wage increases

- 2019: \$10.00
- 2020: \$10.65
- 2021: \$11.35
- 2022: \$12.00
- Thereafter annual increases based on inflation calculated by CPI

Tip Credit Wage

- 2019: 48% of state minimum wage
- 2020: 60% of state minimum wage
- 2021: 70% of state minimum wage
- 2022: 80% of state minimum wage
- 2023: 90% of state minimum wage
- 2024: 100% of state minimum wage

IWOWA Modified Schedule

To account for the passage of time and the original intent, the Michigan Supreme Court ordered the modified schedule to be:

Minimum Wage

February 21, 2025: \$10.00 PLUS an inflation adjustment to be announced – anticipated to be approximately \$12.50 overall.

Annual adjustments for inflation thereafter.

Tip Credit Wage

February 21, 2025: 48% of state minimum wage. Scheduled increases each year thereafter.

Full phaseout complete by 2029.

IWOWA Questions

Unknowns stemming from this ruling as it pertains to IWOWA include, a potential ripple effect on other wage rates; impacts to restaurant employers; and the overall economic impact.





Information in the quick reference guide was provided by Varnum, LLP, and should not be interpreted as legal advice or in place of working with your attorney.

For more information about Varum, LLP, visit www.varnumlaw.com.

The Dickinson Area Economic Development Alliance (The Alliance) is the leader in stimulating economic development in the Dickinson County area of Michigan's Upper Peninsula. The Alliance joins business, industry, education, government, and community organizations to grow the region's economy by retaining, recruiting, and growing talent for our growing employer base as well as promoting business retention & expansion, government relations & advocacy, and infrastructure & housing development. The Alliance tells the unique story of a robust community in which to live and work. The Alliance is a 501c6 with 80% of its funding from private-sector employers.

For more information about The Alliance, visit www.daeda.org.