

EARNED SICK TIME ACT, IMPROVED WORKFORCE OPPORTUNITY WAGE ACT, AND INCREASED EXEMPT EMPLOYEE SALARY THRESHOLD



OCTOBER 2024 ROUND TABLE SUMMARY

On October 9, The Alliance hosted a roundtable with Attorney Jacob D. Lynch, Attorney Anthony E. Cavalieri, and Tony Flaminio, CPA, to review the changes businesses must comply with regarding IWOWA and ESTA beginning February 21, 2025.

Below are the discussion points from the presentation provided by Jacob Lynch and Anthony Cavalieri of Ryan & Lynch and Tony Flaminio of Fleury-Singler & Company.

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.

IWOWA Requirements

February 21, 2025 – The minimum hourly wage will be \$10.00 plus the state treasurer’s inflation adjustments, using July 31, 2024, as the end point for that calculation. The tip credit will be 48 percent of the minimum wage.

February 21, 2026 – The minimum hourly wage will be \$10.65 plus the state treasurer’s inflation adjustments. The tip credit will be 60 percent of the minimum wage.

February 21, 2027 – The minimum hourly wage will be \$11.35 plus the state treasurer’s inflation adjustments, using July 31, 2024, as the end point for that calculation. The tip credit will be 70 percent of the minimum wage.

February 21, 2028 – The minimum hourly wage will be \$12.00 plus the state treasurer’s inflation adjustments. The tip credit will be 80 percent of the minimum wage.

February 21, 2029 – The state treasurer shall calculate the inflation-adjusted minimum wage. The tip credit will no longer exist.

The most significant impact for restaurants or other businesses with tipped employees is tips being phased out by 2029.



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ESTA Requirements

The ESTA requirements apply to ALL Michigan employers with at least one employee, excluding the federal government. Small employers have reduced paid sick time requirements.

Small employers (<10 employees)

Small businesses with less than 10 employees must provide up to forty hours of paid sick leave and an additional thirty-two hours of unpaid sick leave time per year.

Larger employers (>10 employees)

Employers with ten or more employees are considered 'large' employers. Their employees are entitled to accrue and use up to seventy-two hours of paid sick leave per year.

Accrual

Employers cannot cap the hours accrued during the year. The amount of the accrual under the law requires 1 hour of sick time accrued for every 30 hours worked (72 hours OR 40 hours paid and 32 hours unpaid is under the assumption that the employee works 2,080 hours during the year). Since overtime is required to be used for the calculation, the accrual could be over the amounts mentioned, and part-time employees can accrue under the hours mentioned.

Front loading time is not restricted. Therefore, front loading is likely permitted.

ESTA Rules Regarding Sick Time Usage

The broader scope of sick leave usage includes ESTA defining a 'family member' as someone related by 'affinity,' so sick leave can be used when caring for a close friend or someone you are not legally related to.

An employer may not request documentation supporting the qualified need for paid sick leave unless an employee is absent for more than three days. The documentation does not need to be detailed. For example, documentation signed by a healthcare professional indicating earned sick time is necessary is reasonable documentation for the purpose of medically related need for leave. The employer is responsible for out-of-pocket expenses of the employee obtaining documentation.

Employees have a private cause of action for violations to the act, with a three-year statute of limitations. Employees can proceed directly to court and forgo filing a complaint with the state enforcement agency altogether. A violation of the act could entitle the employee to reinstatement, back wages, liquidated damages (double damages), costs, and attorneys' fees. A rebuttal presumption of retaliation arises if adverse action is taken against an employee within ninety days of the employee's use of paid leave.



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ESTA Rules Regarding Sick Time Usage (continued)

If an employee misses work for sick time and the employer takes adverse employment action against them, the court will assume, unless proven otherwise, that the adverse employment action was because of the missed day. There would be a rebuttable presumption in that case that the termination was in retaliation for the sick time.

It is essential to update your policies so that it is clear how you are operating within the law and that the employee understands the requirements. The law says you can require seven days notice for planned absences in your employee handbook. This works for planned absences, but absences are often not planned. In these cases, the law requires reasonable notice.

Employers can restrict the usage of the accrual to 72 hours of paid sick time (employers of 10+ employees) and 40 paid/32 unpaid (employers of >10 employees).

Determine if your business will pay out accrued sick time and document it in your employee handbook. The law does not require payout upon termination, but you may be required to pay out if your policy does not dictate that.

Accrual should be tracked in your payroll, and should be accrued based on hours worked. This applies to all employees, full-time and part-time. If an employee does not use their paid sick leave, it carries over. There can be no cap for carry-over accrued sick leave.

Increased Exempt Employee Salary Threshold

For employees with administrative, executive, and professional job duties, the new employee thresholds exempt them from overtime eligibility.

Exempt Employee Threshold

43,888 per year (\$844 per week) as of July 1, 2024, and \$58,656 per year (\$1,128 per week) as of January 1, 2025.

Highly-Compensated Exempt

\$107,432 (current) to \$132,964 as of July 1, 2024, and \$151,164 as of January 1, 2025.

Employers should revise employee handbooks to comply, review the new rules with payroll staff, work with payroll providers to update accrual dates and wages and create documentation policies to comply with recordkeeping. The recordkeeping requirement is keeping records for three years. Employers will want to post updated posters with this information in their workplaces.



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Practical Actions For Employers

1. Revise your employee handbook to comply
2. Review the new rules with your payroll staff
3. Work with payroll providers to update accrual dates and wage
4. Create documentation policies to employ with recordkeeping
5. Order updated posters
6. Talk to your CPA



Information in the quick reference guide was provided by Ryan & Lynch and Fleury-Singler & Company, and should not be interpreted as legal advice or in place of working with your attorney or CPA.

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.