

MICHIGAN MINIMUM WAGE AND PAID SICK LEAVE UPDATE: NEW WAGE RATES + 6 PAID SICK LEAVE ANSWERS

Insights
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Now that fall is well underway, Michigan employers should be reviewing their compensation practices and paid leave policies to ensure compliance with the new requirements taking effect in 2025. As detailed [previously](#), the Michigan Supreme Court recently reinstated voter-initiated versions of the state's minimum wage and paid sick leave laws after finding that state lawmakers unconstitutionally usurped the voter initiative. That ruling left employers with lingering compliance questions. But now that the state announced the new inflation-adjusted minimum wage rates, we'll provide you with the details – as well as answers to your top six questions about complying with the Earned Sick Time Act (ESTA).

New Minimum Wage Rates

The Michigan Department of Labor and Economic Opportunity (LEO) issued a [press release](#) on October 1 with the new minimum wage amounts under the Michigan Supreme Court's July 2024 ruling. Notably, there will be two increases to the minimum wage in 2025, since the court's ruling will not take effect until February 21. Here are the new minimum wage and tipped hourly wage amounts, respectively, which will take effect between 2025 and 2028:

- January 1, 2025: \$10.56/\$4.01
- February 21, 2025: \$12.48/\$5.99
- February 21, 2026: \$13.29/\$7.97

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- February 21, 2027: \$14.16/\$9.91
- February 21, 2028: \$14.97/\$11.98

Two quick reminders, assuming no legislative action alters the situation:

- starting in 2029, the minimum wage will normally increase based on inflation every year; and
- the tipped hourly wage will be 90% of the minimum wage in 2029 and 100% of the minimum wage starting in 2030 (meaning there will be no more “tip credit” in Michigan starting in 2030).

6 Answers to Your Top ESTA Compliance Questions

1. Can an employer use its PTO policy (or vacation policy) to comply with ESTA?

Yes. As long as the policy meets all the other ESTA requirements — such as covered reasons, accrual rate, and unlimited carryover — you can use your PTO policy to comply.

2. Can an employer frontload the 72 hours of leave and provide all of it at the start of the benefit year?

Yes. LEO has said employers may frontload all 72 hours of leave at the outset of the benefit year to comply with ESTA as long as all other ESTA requirements are met.

3. Can employers cap carryover of accrued but unused ESTA-compliant leave from one benefit year to the next?

No. ESTA does not permit any carryover caps.

4. Do employers now need to track FLSA exempt employees' use of ESTA-compliant leave?

Yes. ESTA requires employers to keep at least three years of records on hours worked and ESTA-compliant leave taken by employees. So, employers will now need to track FLSA exempt employees' use of ESTA-compliant leave.

5. Can an employer that frontloads ESTA leave pro-rate the 72 hours for a new employee hired mid-benefit year (for example, someone hired in June by an employer that operates on a calendar year for benefits)?

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Likely no. An employee must be able to use at least 72 hours of ESTA-compliant leave during a benefit year. An employer that frontloads must provide at least 72 hours of ESTA-compliant leave to be used during a benefit year to all new hires irrespective of hire date. Note, however, the ESTA-permitted 90 day waiting period for new hires (unless the new hire is someone who was rehired within six months) obviates some of the anticipated issues.

6. If an employee uses all 72 hours of his/her accrued ESTA-compliant paid leave for a personal vacation that is not covered by ESTA and then needs to take leave because their child is sick — which is covered by ESTA — must the employer provide additional paid leave to the employee?

No. LEO has stated that employers need only make at least 72 hours of leave available for use during a benefit year for ESTA-covered reasons. If an employee uses all 72 of those hours for reasons not covered by ESTA, they are essentially “out of luck” if they subsequently want to take paid leave for ESTA-covered reasons.

Conclusion

We will continue to monitor developments in this area and provide updates as warranted, so make sure that you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information direct to your inbox. If you have further questions, contact your Fisher Phillips attorney, the authors of this Insight, any attorney in [our Detroit office](#), or any attorney in our [Wage and Hour Practice Group](#).