

# MORRISSEY, HAWKINS & LYNCH

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## CLIENT ADVISORY – MASSACHUSETTS SICK LEAVE LAW December 18, 2014

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On November 4, 2014, Massachusetts voters approved a law to provide earned sick leave to Massachusetts employees. The new sick leave law, to be enacted as G.L. Ch. 149, § 148C, affects *all* Massachusetts employers. Employers with eleven or more employees must provide employees paid sick time while employers with fewer than eleven employees must give employees unpaid sick time. In determining the number of employees, the employer must count all full time, part time and temporary workers.

Under the new sick leave law, an employee may use earned sick time in order to:

- 1) Care for the employee's own physical or mental illness, injury or medical condition or attend his or her routine medical appointments;
- 2) Care for the illness, injury or medical condition of the employee's child, spouse, parent, or parent of a spouse or attend his or her routine medical appointments; and
- 3) Address the effects of domestic violence on the employee or the employee's dependent child.

Employers cannot interfere with an employee's use of sick time for any of these reasons or retaliate against an employee as a result of used sick time.

The new sick leave law will go into effect on July 1, 2015. Beginning on that day (or on an employee's date of hire, if later), each Massachusetts employee will earn one hour of sick time for every 30 hours worked up to a maximum of 40 hours of earned sick time per calendar year. Salaried employees are assumed to work 40 hours per week for purposes of the law unless their normal work week is less than 40 hours, in which case earned sick time shall be based on that normal work week. An employee may carry over up to 40 hours of unused sick time per year but is prohibited from using more than 40 hours of sick time per calendar year. An employer is not required to pay an employee for unused sick time at the termination of employment.

An employer may not seek certification of the need for sick time from an employee unless that employee has used sick time for more than 24 hours of consecutively scheduled employment nor may an employer deny sick leave pending certification from the employee. For example, an employee who works 8:00 to 5:00 on Monday through Friday could not be required to provide a doctor's note until he or she has used sick time for three consecutive days of scheduled work.

The new sick leave law will not override benefit plans or contracts that contain more generous provisions than the new law. Furthermore, employers who already provide their employees with paid time off through a paid time off, vacation or other policy need not provide employees with additional paid time off so long as the paid time off is usable under the same conditions and accrues at least at the same rate as under the new sick leave law.

As with other state wage laws, the Attorney General will enforce the new sick leave law and will construct a notice regarding the right to earned sick time that the employer must provide to employees and post in a conspicuous location in the office.

We encourage all Massachusetts employers to review all of their paid time off, vacation, or other paid leave policies to determine if they may need to implement changes to their policies to comply with the law. If you have any questions about the impact of the new sick leave law on your business, please do not hesitate to contact us.