

Arizona Voters Pass Proposition 206

Minimum wage increased and workers provided right to paid sick leave

On November 8, 2016 Arizona voters passed the “Fair Wages and Healthy Families Act” (the “Act”), known as Proposition 206. The minimum wage increase will be a lock-step increase up to \$12.00 per hour by January 1, 2020. The Act will also require employers to provide paid sick leave to their employees. We suggest that employers, regardless of size and whether current paid time off is provided to employees, take a few particular steps to ensure compliance with the new Paid Sick Time law.

Minimum wage increase to \$10.00 per hour; eventual increase to \$12.00

Arizona’s minimum wage will be \$10.00 per hour as of January 1, 2017. The rate will go up 50 cents per hour each year thereafter, until the rate hits \$12.00 per hour on January 1, 2020. After that the rate will be subject to annual increases based on inflation (using the same formula for calculating inflation that the present law uses).

Paid Sick Time

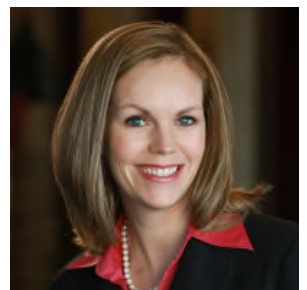
The Paid Sick Time benefit goes into effect on July 1, 2017. When the law goes into effect, all employees will earn a minimum of one hour of Paid Sick Time for each 30 hours that they work, subject to the statutory caps. It’s a “minimum” because any employer can give its people more paid sick leave if it wants to do so. This law establishes one hour of paid sick time for each 30 hours worked as the statutory minimum.

Statutory caps. Employees who work for companies with 15 or more workers on the payroll (including all full time, part time, and temporary workers) can accrue or use no more than 40 hours in a year. Employees who work for companies with fewer than 15 workers on the payroll can accrue or use no more than 24 hours in a year.

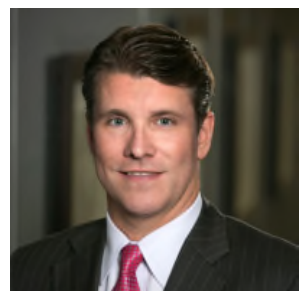
Accrual of Paid Sick Time. All workers who are employed as of July 1, 2017 must commence accruing Paid Sick Time immediately. All persons hired after July 1 start accruing Paid Sick Time immediately upon commencement of their employment. But, the law permits employers to utilize a 90-day waiting period for use of Paid Sick Time for any worker hired after July 1.



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Employers have the option to credit workers with all of their anticipated annual Paid Sick Time at the beginning of the year. Or employers may credit workers with their Paid Sick Time on an ongoing basis throughout the year, based upon the hours that they actually work.

Use of Paid Sick Time. Under the law employees may use Paid Sick Time for any of a number of reasons. Absences for which an employee may use Paid Sick Time include:

- Absence due to mental or physical illness, injury, or other health condition;
- Absence due to the need for medical diagnosis, care, or treatment of such a condition for self or family member;
- Absence due to the closure of the workplace due to a public health emergency, or to care for a family member whose school or place of care has been closed by such an emergency; and
- Absence due to domestic violence, sexual violence, abuse, or stalking, when the absence is for medical attention, domestic violence services, counseling, relocation, or legal services.

Notice of leave. Under the law, employers must provide Paid Sick Time upon the employee's written, electronic, or verbal request. The law requires that the employee provide the expected duration of his or her absence "when possible" and when foreseeable, make a "reasonable effort" to provide the employer with advance notice of requested leave.

Carryover of Paid Sick Time. At the end of each year any unused Paid Sick Time carries over to the next year. The caps discussed above, however, remain in place. That is, no matter how much Paid Sick Time a worker may carry over from one year to the next, he or she still cannot use more than 40 hours in a year (or 24 hours in a year in companies with fewer than 15 workers on the payroll).

Existing sick leave policies. Of course, many employers already have some form of policy or practice of providing workers with sick leave, personal leave, or other paid time off. Employers who already provide paid sick leave benefits that meet the accrual and use requirements of the law need not offer additional paid time off.

Be Prepared

The Act requires employers to follow certain implementation, notice, and recordkeeping requirements, the intricacies of which could not be succinctly addressed herein. We are prepared to assist employers with these intricacies. Leading up to the implementation of the Act, employers should develop a written policy covering Paid Sick Time (or revise your existing paid time off and/or sick leave policy to include a discussion of Paid Sick Time). The written policy should contain at least the minimum information specified above:

- Notice to employees of their right to Paid Sick Time;
- The amount of Paid Sick Time employees accrue;
- The terms governing the use of Paid Sick Time (e.g., notification, carry-over, etc.);
- The prohibition against retaliation for use of Paid Sick Time, employees' right to pursue claims for violation and the contact information for the state Industrial Commission; and
- Employer's policy with respect to payment for unused Paid Sick Time, upon separation and otherwise.
- Explain what "year" the employer will use for the accrual and use of Paid Sick Time (calendar year, fiscal year, employee's anniversary date, or any other 12-month period).