



Labor & Employment Alert
April 2015

**IMPORTANT NOTICE: Attorney General Announces
PROPOSED Regulations Regarding Earned Sick Time Law, Open
Comment Period**

For a discussion of these and other legal issues, please visit our website at www.mhtl.com/law. To receive legal updates via e-mail, contact information@mhtl.com.

The Massachusetts Office of the Attorney General (AGO) has issued proposed regulations regarding the Earned Sick Time Law that was approved by voters on November 4, 2014. The Earned Sick Time law will go into effect on July 1, 2015 and generally requires employers to provide up to 40 hours of earned sick time per year to their employees for a wide variety of covered reasons. The recent proposed regulations can be found [here](#).

<http://www.mass.gov/ago/docs/regulations/proposed/940-cmr-33-00-proposed.pdf>.

The regulations clarify and expand upon many areas, including:

- **Coverage:** Coverage remains broad under the proposed regulations; Covered employers include *all* private and public employers except cities and towns (unless the city or town accepts the law by vote or appropriation); The definition of covered employees includes all full time, part time, seasonal, temporary, or any other person who performs services for wages or other remuneration.
- **Employees working in multiple states:** The proposed regulations provide that an employee is eligible for earned sick time if the “primary place of work” is Massachusetts.
- **Hourly rate:** The proposed regulations provide guidance on how to calculate the hourly rate for purposes of providing paid sick time, including employees receiving varying hourly rates, those paid on commission, or those paid on a piece work basis.
- **Transition year (July 1, 2015 to beginning of next Calendar Year):** The proposed regulations provide that “an employer shall not be required to provide more than 40 hours of earned paid sick time during the transition year, and any paid leave given prior to July 1, 2015, will be credited”).
- **Substitution of more generous sick leave policies:** The proposed regulations provide examples of “more generous” policies which may substituted for the statutory minimums.
- **Notice and Certification:** The proposed regulations provide additional details on when and under what circumstances an employer may require notice and



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certification for the use of sick time, including certification where an employee does not have a health care provider.

- Record-keeping: The proposed regulations require the employer to keep a true and accurate record of the accrual and use of sick time for a period of three years.

Employers need to carefully consider their own policies and practices in light of these proposed regulations and the law. Final regulations are expected prior to July 1, 2015. Comments to the AGO are due on or before June 10, 2015. Information regarding scheduled public hearings and instructions to submit comments can be found here: <http://www.mass.gov/ago/docs/regulations/proposed/940-cmr-33-notice.pdf>.

This client alert was written by Attorney Kier Wachterhauser. If you have any questions, please contact Kier Wachterhauser or the attorney responsible for your account, or call (617) 479-5000.

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