Article - Labor and Employment

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§3–1304.

(a) (1) (i) Subject to subparagraph (iii) of this paragraph, an employer that employs 15 or more employees shall provide an employee with earned sick and safe leave that is paid at the same wage rate as the employee normally earns.

(ii) An employer that employs 14 or fewer employees shall at least provide an employee with unpaid earned sick and safe leave.

(iii) An employer may not be required to pay a tipped employee more than the applicable minimum wage for earned sick and safe leave.

(2) (i) For the purpose of determining whether an employer is required to provide paid or unpaid earned sick and safe leave under this subsection, the number of employees of an employer shall be determined by calculating the average monthly number of employees employed by the employer during the immediately preceding year.

(ii) Each employee of an employer shall be included in the calculation made under subparagraph (i) of this paragraph without regard to whether the employee is a full–time, part–time, temporary, or seasonal employee or would be eligible for earned sick and safe leave benefits under this subsection.

(b) The earned sick and safe leave provided under subsection (a) of this section shall accrue at a rate of at least 1 hour for every 30 hours an employee works.

(c) An employer may not be required to allow an employee to:

(1) earn more than 40 hours of earned sick and safe leave in a year;

(2) use more than 64 hours of earned sick and safe leave in a year;

(3) accrue a total of more than 64 hours at any time;

(4) use earned sick and safe leave during the first 106 calendar days the employee works for the employer; or

(5) accrue earned sick and safe leave during a:

(i) 2–week pay period in which the employee worked fewer than 24 hours total;

(ii) 1–week pay period if the employee worked fewer than a combined total of 24 hours in the current and the immediately preceding pay period; or

(iii) pay period in which:

1. the employee is paid twice a month regardless of the number of weeks in a pay period; and

2. the employee worked fewer than 26 hours in the pay period.

(d) At the beginning of each year, an employer may award to an employee the full amount of earned sick and safe leave that an employee would earn over the course of the year rather than awarding the leave as the leave accrues during the year.

(e) (1) Except as provided in paragraph (2) of this subsection, for the purposes of calculating the accrual of earned sick and safe leave, an employee who is exempt from overtime wage requirements under the federal Fair Labor Standards Act is assumed to work 40 hours each workweek.

(2) If the employee's normal workweek is less than 40 hours, the number of hours in the normal workweek shall be used.

(f) Earned sick and safe leave shall begin to accrue:

(1) January 1, 2018; or

(2) if the employee is hired after January 1, 2018, the date on which the employee begins employment with the employer.

(g) (1) Subject to paragraphs (2) and (3) of this subsection, if an employee has unused earned sick and safe leave at the end of each year, the employee may carry over the balance of the earned sick and safe leave to the following year.

(2) An employer may not be required to allow an employee to carry over more than 40 hours of earned sick and safe leave under paragraph (1) of this subsection.

(3) An employer may not be required to allow an employee to carry over unused earned sick and safe leave under paragraph (1) of this subsection if:

(i) the employer awards the employee the full amount of earned sick and safe leave at the beginning of each year under subsection (d) of this section; or

(ii) the employee is employed by a nonprofit entity or a governmental unit in accordance with a grant, the duration of which is limited to 1 year and is not subject to renewal.

(h) If an employee is rehired by the employer within 37 weeks after leaving the employment of the employer, the employer shall reinstate any unused earned sick and safe leave that the employee had when the employee left the employment of the employer unless the employer voluntarily paid out the unused earned sick and safe leave on the termination of employment.

(i) (1) An employer may allow an employee to use earned sick and safe leave before the employee accrues the amount needed.

(2) If an employee is allowed under paragraph (1) of this subsection to use earned sick and safe leave before it has accrued, the employer may deduct the amount paid for the earned sick and safe leave from the wages paid to the employee on the termination of employment under § 3–505 of this title if:

(i) the employer and employee mutually consented to the deduction as evidenced by a document signed by the employee; and

(ii) the employee leaves the employment of the employer before the employee has accrued the amount of earned sick and safe leave that was used.

(j) An employer may not be required to pay out on the termination of employment unused earned sick and safe leave accrued by an employee.

(k) An employer who acquires, by sale or otherwise, another employer shall allow all employees of the original employer who remain employed by the successor employer to retain all unused earned sick and safe leave accrued during employment with the original employer.

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