EARNED SICK TIME ACT

Act 338 of 2018

AN ACT to require certain employers to provide certain employees with earned sick time that may be used for certain purposes; to specify the conditions for accruing and using earned sick time; to prohibit an employer from taking retaliatory personnel action against certain employees for certain acts; to provide for the powers and duties of certain state officers and entities; to provide for promulgation of rules; and to provide remedies and sanctions.

History: 2018, Act 338, Eff. Mar. 29, 2019 ;-- Am. 2018, Act 369, Eff. Mar. 29, 2019 ;-- 2018, Act 338, Eff. Feb. 21, 2025 ;-- Am. 2025, Act 2, Imd. Eff. Feb. 21, 2025
Compiler's Notes: See Mothering Justice v Attorney General, case no. 165325, July 31, 2024. The Michigan Supreme Court held that 2018 PA 369 was unconstitutional and, therefore void and revived the original initiative as enacted by the Legislature on September 5, 2018, effective February 21, 2025.

The People of the State of Michigan enact:

408.961 Short title.

Sec. 1.

This act shall be known and may be cited as the "earned sick time act".

History: 2018, Act 338, Eff. Mar. 29, 2019 ;-- Am. 2018, Act 369, Eff. Mar. 29, 2019 ;-- 2018, Act 338, Eff. Feb. 21, 2025
Compiler's Notes: Public Act 338 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018.For the transfer of powers and duties of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.See Mothering Justice v Attorney General, case no. 165325, July 31, 2024. The Michigan Supreme Court held that 2018 PA 369 was unconstitutional and, therefore void and revived the original initiative as enacted by the Legislature on September 5, 2018, effective February 21, 2025.

408.962 Definitions.

Sec. 2.

As used in this act:

(a) "Department" means the department of labor and economic opportunity.

(b) "Director" means the director of the department or the director's designee.

(c) "Domestic partner" means an adult in a committed relationship with another adult, including both same-sex and different-sex relationships. As used in this subdivision, "committed relationship" means a relationship in which the employee and another individual share responsibility for a significant measure of each other's common welfare, such as any relationship between individuals of the same or different sex that is granted legal recognition by a state, political subdivision, or the District of Columbia as a marriage or analogous relationship, including, but not limited to, a civil union.

(d) "Domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

(e) "Earned sick time" means time off from work that is provided by an employer to an employee, whether paid or unpaid, that can be used for the purposes described in section 4.

(f) "Employee" means an individual engaged in service to an employer in the business of the employer. Employee does not include any of the following:

(i) An individual employed by the United States government.

(ii) An individual who works in accordance with a policy of an employer if both of the following conditions are

met:

(A) The policy allows the individual to schedule the individual's own working hours.

(B) The policy prohibits the employer from taking adverse personnel action against the individual if the individual does not schedule a minimum number of working hours.

(iii) An unpaid trainee or unpaid intern.

(iv) An individual who is employed in accordance with the youth employment standards act, 1978 PA 90, MCL 409.101 to 409.124.

(g) "Employer" means any person, firm, business, educational institution, corporation, limited liability company, government entity, or other entity that employs 1 or more individuals. Employer does not include the United States government.

(h) "Family member" includes all of the following:

(i) A biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, or a child to whom the employee stands in loco parentis.

(ii) A biological parent, foster parent, stepparent, or adoptive parent or a legal guardian of an employee or an employee's spouse or domestic partner or an individual who stood in loco parentis when the employee was a minor child.

(iii) An individual to whom the employee is legally married under the laws of any state or a domestic partner.

(iv) A grandparent.

(v) A grandchild.

(vi) A biological, foster, or adopted sibling.

(vii) An individual related by blood to the employee.

(viii) An individual whose close association with the employee is the equivalent of a family relationship.

(i) "Health care professional" means any of the following:

(i) A person licensed under federal law or the law of this state to provide health care services, including, but not limited to, nurses, doctors, and emergency room personnel.

(ii) A certified midwife.

(j) "Retaliatory personnel action" means any of the following:

(i) Denial of any right guaranteed under this act.

(ii) A threat, discharge, suspension, demotion, reduction of hours, or other adverse personnel action against an employee or former employee for exercise of a right guaranteed under this act.

(iii) Sanctions against an employee who is a recipient of public benefits for exercise of a right guaranteed under this act.

(iv) Interference with, or punishment for, an individual's participation in any manner in an investigation, proceeding, or hearing under this act.

(k) "Sexual assault" means any act that constitutes a violation of section 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

(l) "Small business" means an employer for which 10 or fewer individuals work for compensation during a given week. In determining the number of individuals performing work for compensation during a given week, all individuals performing work for compensation on a full-time, part-time, or temporary basis must be counted, including individuals made available to work through the services of a temporary services or staffing agency or similar entity. An employer is not a small business if it maintained more than 10 employees on its payroll during any 20 or more calendar workweeks in either the current or immediately preceding calendar year.

(m) "Unpaid trainee or unpaid intern" means an individual who receives training from an employer in accordance with all of the following:

(i) The training the individual receives is similar to the experience provided in a vocational school.

(ii) The training is for the benefit of the individual.

(iii) The individual does not displace the employer's employees, but works under close supervision.

(iv) The employer receives no immediate advantage from the activities of the individual and, on occasion, the employer's operations may be impeded by the individual.

(v) The individual is not entitled to a job at the conclusion of the training.

(vi) The employer and the individual understand that the individual is not entitled to wages for time spent in training.

History: 2018, Act 338, Eff. Mar. 29, 2019 ;-- Am. 2018, Act 369, Eff. Mar. 29, 2019 ;-- 2018, Act 338, Eff. Feb. 21, 2025 ;-- Am. 2025, Act 2, Imd. Eff. Feb. 21, 2025

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369 was unconstitutional and, therefore void and revived the original initiative as enacted by the Legislature on September 5, 2018, effective February 21, 2025.

408.963 Earned sick time to be provided by employer; alternatives; accrual; use; carry over; "year" defined; workweek; compliance; pay rate; replacement worker not required.

Sec. 3.

(1) An employer shall provide earned sick time to each of the employer's employees in this state.

(2) Except as otherwise provided in section 12, this subsection, and subsection (4), an employee of a small business must accrue a minimum of 1 hour of paid earned sick time for every 30 hours worked, not including hours used as paid time off, but may not use more than 40 hours of paid earned sick time in a year unless the employer selects a higher limit. As an alternative to the accrual of paid earned sick time, a small business may provide an employee not less than 40 hours of paid earned sick time at the beginning of a year for immediate use. Notwithstanding the requirements of subsection (6), this act does not require a small business to do any of the following until October 1, 2025:

(a) Allow an employee to accrue paid earned sick time in accordance with this subsection.

(b) Provide paid earned sick time to an employee as an alternative to the accrual of paid earned sick time.

(c) Calculate and track an employee's accrual of paid earned sick time.

(3) Except as otherwise provided in this subsection and subsection (4), all other employees must accrue a minimum of 1 hour of paid earned sick time for every 30 hours worked, not including hours used as paid time off, but may not use more than 72 hours of paid earned sick time in a year, unless the employer selects a higher limit. As an alternative to the accrual of paid earned sick time, an employer may provide an employee not less than 72 hours of paid earned sick time at the beginning of a year for immediate use.

(4) As an alternative to the accrual of paid earned sick time, an employer that employs a part-time employee may provide paid earned sick time to the part-time employee at the beginning of a year for immediate use in accordance with all of the following requirements:

(a) The employer provides the part-time employee with a written notice of how many hours the part-time employee is expected to work for a year at the time of hire.

(b) The amount of earned sick time provided to the part-time employee at the beginning of the year is, at a minimum, proportional to the earned sick time that the part-time employee would accrue if the part-time employee worked all of the hours expected as provided in the written notice.

(c) If the part-time employee works more hours than what is expected as provided in the written notice, the employer must provide the part-time employee with additional earned sick time in accordance with the accrual requirements under this section.

(5) Subject to the requirements of this subsection, earned sick time carries over from year to year, but a small business is not required to allow an employee to use more than 40 hours of paid earned sick time in a single year, and all other employers are not required to allow an employee to use more than 72 hours of paid earned sick time in a single year. An employer shall allow an employee to carry over all of the employee's unused accrued paid earned sick time not to exceed 72 hours or, if the employer is a small business, not to exceed 40 hours from 1 year to the next year, unless the employer selects a higher limit. This act does not require an employer that provides paid earned sick time at the beginning of a year as described in subsections (2) to (4) to do any of the following:

(a) Allow an employee to carry over any unused earned sick time from 1 year to the next year.

(b) Calculate and track an employee's accrual of paid earned sick time.

(c) Pay the employee the value of the employee's unused accrued paid earned sick time at the end of the year in which the earned sick time was accrued.

(6) Earned sick time as provided in this section begins to accrue on the effective date of this act, or upon commencement of the employee's employment, whichever is later. An employee may use accrued earned sick time as it is accrued, except that an employer may require an employee hired after the effective date of the 2025 amendatory act that amended this section to wait until 120 calendar days after commencing employment before using accrued earned sick time.

(7) An employer is in compliance with this section if the employer meets either of the following conditions:

(a) Provides the employer's employees with paid time off in not less than the same amounts of time off as provided under this act that may be used for the purposes described in section 4 or any other purpose. If an employee uses paid time off as described in this subdivision for the purposes described in section 4, this act applies to the use of that paid time off. This act does not require an employer that provides paid time off as described in this subdivision to allow an employee to use paid time off for the purposes described in section 4 in an amount that exceeds the amounts of time off provided under this act.

(b) The employer is a signatory to a collective bargaining agreement that requires contributions to a multiemployer plan as that term is defined in section 3 of subtitle A of title I of the employee retirement income security act of 1974, 29 USC 1002, that may be used under the same conditions as provided for under this act, in an amount equal to or greater than what is required to be provided under this act, and that accrues at a rate equal to or greater than the rate described in subsections (2) and (3). This act does not require a multiemployer plan that provides benefits in accordance with this act to pay accrued paid sick leave benefits if an employer does not remit required contributions to the plan. If an employer does not make required contributions to the multiemployer plan as provided in this subdivision, the employer is not considered to be in compliance with the employer's obligations under this act.

(8) An employer shall pay each employee using paid earned sick time at a pay rate equal to the greater of either the normal hourly wage or base wage for that employee or the minimum wage established under the improved workforce opportunity wage act, 2018 PA 337, MCL 408.931 to 408.945, but not less than the minimum wage rate established in section 4 of the improved workforce opportunity wage act, 2018 PA 337, MCL 408.934. This act does not require an employer to include overtime pay, holiday pay, bonuses, commissions, supplemental pay, piece-rate pay, tips, or gratuities in the calculation of an employee's normal hourly wage or base wage.

(9) An employer shall not require an employee to search for or secure a replacement worker as a condition for using earned sick time.

(10) For purposes of subsections (2) to (5), "year" means a regular and consecutive 12-month period, as determined by an employer.

(11) For purposes of earned sick time accrual under this act, all of the following apply:

(a) An employee who is exempt from overtime requirements under section 13(a)(1) of the fair labor standards act, 29 USC 213, is assumed to work 40 hours in each workweek unless the employee's normal workweek is less than 40 hours, in which case earned sick time accrues based on that normal workweek.

(b) An employee who is covered under 29 CFR 825.801 is assumed to have worked not less than 40 hours in each workweek or is assumed to have worked not less than 30 hours if employed by a small business.

History: 2018, Act 338, Eff. Mar. 29, 2019 ;-- Am. 2018, Act 369, Eff. Mar. 29, 2019 ;-- 2018, Act 338, Eff. Feb. 21, 2025 ;-- Am. 2025, Act 2, Imd. Eff. Feb. 21, 2025

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408.963a Waiting period; exception; contributions to multiemployer plan.

Sec. 3a.

An employer that makes contributions to a multiemployer plan as described in section 3(7)(b) shall not require an employee to wait until 120 calendar days after commencing employment with that employer before using unused accrued earned sick time and nonforfeited paid sick leave benefits that were earned as a result of past service for a different employer that also made contributions to the same multiemployer plan or any paid sick leave benefits earned by working under the collective bargaining agreement for that employer. Contributions required under the collective bargaining agreement or other employment agreement for the paid sick leave plan are due on the same schedule as the other fringe benefit funds or plans to which the signatory employer must contribute.

History: Add. 2025, Act 2, Imd. Eff. Feb. 21, 2025

408.964 Earned sick time; permissible uses; advance notice; incremental use; documentation; disclosure of details relating to domestic violence or sexual assault or family member's medical condition; other purposes.

Sec. 4.

(1) An employer shall allow an employee to use the earned sick time accrued or provided under section 3 for any of the following purposes:

(a) The employee's mental or physical illness, injury, or health condition; medical diagnosis, care, or treatment of the employee's mental or physical illness, injury, or health condition; or preventative medical care for the employee.

(b) For the employee's family member's mental or physical illness, injury, or health condition, medical diagnosis, care, or treatment of the employee's family member's mental or physical illness, injury, or health condition or preventative medical care for a family member of the employee.

(c) If the employee or the employee's family member is a victim of domestic violence or sexual assault, for medical care or psychological or other counseling for physical or psychological injury or disability, to obtain services from a victim services organization, to relocate due to domestic violence or sexual assault, to obtain legal services, or to participate in any civil or criminal proceedings related to or resulting from the domestic violence or sexual assault.

(d) For meetings at a child's school or place of care related to the child's health or disability, or the effects of domestic violence or sexual assault on the child.

(e) For closure of the employee's place of business by order of a public official due to a public health emergency, for an employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency, or when it has been determined by the health authorities having jurisdiction or by a health care provider that the employee's or employee's family member's presence in the community would jeopardize the health of others because of the employee's or family member's exposure to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease.

(2) If the employee's need to use earned sick time is foreseeable, an employer may require advance notice, not to exceed 7 days before the date the earned sick time is to begin, of the intention to use the earned sick time.

(3) If the employee's need for the earned sick time is not foreseeable, an employer, may require the employee to give notice of the intention in either of the following manners:

(a) As soon as practicable.

(b) In accordance with the employer's policy related to requesting or using sick time or leave if both of the following are met:

(i) On the date of the employee's hire, on the effective date of the 2025 amendatory act that added this subparagraph, or on the date that the employer's policy takes effect, whichever is latest, the employer provides the employee with a written copy of the policy that includes procedures for how the employee must provide notice.

(ii) The employer's notice requirement allows the employee to provide notice after the employee is aware of the need for the earned sick time.

(4) An employer that requires notice for sick time that is not foreseeable under subsection (3)(b) shall not deny an employee's use of earned sick time that is not foreseeable if either of the following conditions applies:

(a) The employer did not provide a written policy to the employee as required under subsection (3)(b)(i).

(b) The employer made a change to the written policy and did not provide notice of the change to the employee within 5 days after the change.

(5) Earned sick time may be used in 1-hour increments or the smallest increment that the employer uses to account for absences of use of other time.

(6) For earned sick time of more than 3 consecutive days, an employer may require reasonable documentation that the earned sick time has been used for a purpose described in subsection (1). Upon the employer's request, the employee must provide the documentation to the employer not more than 15 days after the employer's request. The employer shall not delay the commencement of earned sick time on the basis that the employer has not yet received documentation. Documentation signed by a health care professional indicating that earned sick time is necessary is reasonable documentation for purposes of this subsection. In cases of domestic violence or sexual assault, any of the following types of documentation selected by the employee are considered reasonable documentation:

(a) A police report indicating that the employee or the employee's family member was a victim of domestic violence or sexual assault.

(b) A signed statement from a victim and witness advocate affirming that the employee or employee's family member is receiving services from a victim services organization.

(c) A court document indicating that the employee or employee's family member is involved in legal action related to domestic violence or sexual assault.

(7) An employer shall not require that the documentation explain the nature of the illness or the details of the violence. If an employer chooses to require documentation for earned sick time, the employer is responsible for paying all out-of-pocket expenses the employee incurs in obtaining the documentation. If the employee does have health insurance, the employer is responsible for paying any costs charged to the employee by the health care

provider for providing the specific documentation required by the employer.

(8) An employer shall not require disclosure of details relating to domestic violence or sexual assault or the details of an employee's or an employee's family member's medical condition as a condition of providing earned sick time under this act. If an employer possesses health information or information pertaining to domestic violence or sexual assault about an employee or employee's family member, the employer shall treat that information as confidential and shall not disclose that information except to the affected employee or with the permission of the affected employee.

(9) This act does not require an employer to provide earned sick time for any purposes other than as described in this section.

History: 2018, Act 338, Eff. Mar. 29, 2019 ;-- Am. 2018, Act 369, Eff. Mar. 29, 2019 ;-- 2018, Act 338, Eff. Feb. 21, 2025 ;-- Am. 2025, Act 2, Imd. Eff. Feb. 21, 2025

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408.965 Transfer of employee to separate division, entity, or location; retention of earned sick time; reinstatement; successor employer; unused earned sick time.

Sec. 5.

(1) If an employee is transferred to a separate division, entity, or location, but remains employed by the same employer, the employee retains all earned sick time that was accrued at the prior division, entity, or location and may use all accrued earned sick time as provided in section 4. If an employee separates from employment and is rehired by the same employer not more than 2 months after the separation, the employer shall reinstate previously accrued, unused earned sick time and shall allow the reinstated employee to use that earned sick time and accrue additional earned sick time upon reinstatement. This subsection does not apply if an employer pays an employee the value of the employee's unused accrued earned sick time at the time of a transfer or separation.

(2) If a different employer succeeds or takes the place of an existing employer, the successor employer assumes the responsibility for the earned sick time rights that employees who remain employed by the successor employer accrued under the original employer. Those employees are entitled to use earned sick time previously accrued on the terms provided in this act. This subsection does not apply if an employer pays an employee the value of the employee's unused accrued earned sick time at the time of a succession.

(3) This act does not require an employer to provide financial or other reimbursement to an employee for accrued earned sick time that was not used upon the employee's termination, resignation, retirement, or other separation from employment.

History: 2018, Act 338, Eff. Mar. 29, 2019 ;-- Am. 2018, Act 369, Eff. Mar. 29, 2019 ;-- 2018, Act 338, Eff. Feb. 21, 2025 ;-- Am. 2025, Act 2, Imd. Eff. Feb. 21, 2025

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408.966 Exercise of rights under act; interference, restraint, or denial prohibited; retaliatory personnel action or discrimination prohibited; absence control policy leading to or resulting in retaliatory personnel action prohibited; person mistakenly alleging violation.

Sec. 6.

(1) An employer or any other person shall not interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this act.

(2) An employer shall not take retaliatory personnel action or discriminate against an employee because the employee has exercised a right protected under this act. Rights protected by this act include, but are not limited to, the right to use earned sick time under this act, the right to file a complaint or inform any person about any employer's alleged violation of this act, the right to cooperate with the department in the department's investigations of alleged violations of this act, and the right to inform any person of the person's rights under this act.

(3) An employer's absence control policy must not treat earned sick time taken under this act as an absence that may lead to or result in retaliatory personnel action.

(4) The protections in this section apply to any person that mistakenly but in good faith alleges a violation of this section.

(5) An employer may take adverse personnel action against an employee if the employee uses earned sick time for a purpose other than a purpose described in section 4, or violates the notice requirements under this act.

History: 2018, Act 338, Eff. Mar. 29, 2019 ;-- Repealed 2018, Act 369, Eff. Mar. 29, 2019 ;-- 2018, Act 338, Eff. Feb. 21, 2025 ;-- Am. 2025, Act 2, Imd. Eff. Feb. 21, 2025

Compiler's Notes: The repealed section pertained to the exercise of rights and the prohibition of retaliatory personnel action or discrimination.See Mothering Justice v Attorney General, case no. 165325, July 31, 2024. The Michigan Supreme Court held that 2018 PA 369 was unconstitutional and, therefore void and revived the original initiative as enacted by the Legislature on September 5, 2018, effective February 21, 2025.

408.967 Violation of act; enforcement by director; civil remedies; civil fine.

Sec. 7.

(1) If an employer violates this act, the employee affected by the violation, at any time not later than 3 years after the violation, may file a claim with the department. The department shall investigate the claim.

(2) The director shall enforce the provisions of this act. In enforcing this act, the director shall do both of the following:

(a) Establish a system that uses multiple means of communication to receive complaints that are related to noncompliance with this act.

(b) Investigate complaints received by the department in a timely manner.

(3) Any person that alleges a violation of this act has the right to file a complaint with the department. The department shall encourage reporting pursuant to this subsection by keeping confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the employee or person reporting the violation. However, if the person provides authorization to the department, the department may disclose the person's name and identifying information as necessary to enforce this act or for other appropriate purposes.

(4) Upon receiving a complaint alleging a violation of this act, the department shall investigate the complaint and attempt to resolve it through mediation between the complainant and the subject of the complaint, or other means. The department shall keep a complainant notified regarding the status of the complainant's complaint and any resultant investigation. If the department believes that a violation has occurred, it shall issue to the offending person or entity a notice of violation and the relief required of the offending person or entity. The department shall prescribe the form and wording of such notices of violation including any method of appealing the decision of the department.

(5) The department may impose penalties and grant an employee or former employee all appropriate relief, including but not limited to, payment of all earned sick time improperly withheld, any and all damages incurred by the complaint as the result of violation of this act, back pay, and reinstatement in the case of job loss.

(6) If the director determines that there is reasonable cause to believe that an employer violated this act and the department is subsequently unable to obtain voluntary compliance by the employer within a reasonable time, the department shall bring a civil action on behalf of the employee. The department may investigate and file a civil

action on behalf of all employees of that employer who are similarly situated at the same worksite. Except as otherwise provided under section 12, a contract or agreement between the employer and the employee or any acceptance by the employee of a paid or unpaid leave policy that provides fewer rights or benefits than provided by this act is void and unenforceable.

(7) In addition to liability for civil remedies described in this section, an employer that takes retaliatory personnel action against an employee or former employee is subject to a civil fine of not more than $1,000.00 for each violation.

(8) In addition to liability for civil remedies described in this section, an employer that fails to provide earned sick time to an employee in violation of this act is subject to a civil fine of not more than 8 times the employee's normal hourly wage.

(9) An employer that willfully violates a notice or posting requirement of section 8 is subject to a civil fine of not more than $100.00 for each violation.

History: 2018, Act 338, Eff. Mar. 29, 2019 ;-- Am. 2018, Act 369, Eff. Mar. 29, 2019 ;-- 2018, Act 338, Eff. Feb. 21, 2025 ;-- Am. 2025, Act 2, Imd. Eff. Feb. 21, 2025

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408.968 Written notice to employee; contents; language; display of poster; creation by department; availability.

Sec. 8.

(1) An employer subject to this act shall provide written notice to each employee at the time of hiring or not later than 30 days the effective date of the 2025 amendatory act that amended this section, whichever is later, including, but not limited to, all of the following:

(a) The amount of earned sick time required to be provided to an employee under this act.

(b) The employer's choice of how to calculate a year as that term is defined under section 3.

(c) The terms under which earned sick time may be used.

(d) That retaliatory personnel action taken by the employer against an employee for requesting or using earned sick time for which the employee is eligible is prohibited.

(e) The employee's right to file a complaint with the department for any violation of this act.

(2) The notice required under subsection (1) shall be in English, Spanish, and any language that is the first language spoken by at least 10% of the employer's workforce, if the department has translated the notice into that language.

(3) An employer shall display a poster at the employer's place of business, in a conspicuous place that is accessible to employees, that contains the information in subsection (1). The poster displayed must be in English, Spanish, and any language that is the first language spoken by not less than 10% of the employer's workforce, if the department has translated the poster into that language.

(4) The department shall create and make available to employers notices and posters that contain the information required under subsection (1) for the employers' use in complying with this section. The department shall provide the notices and posters in English, Spanish, and any other language deemed appropriate by the department.

History: 2018, Act 338, Eff. Mar. 29, 2019 ;-- Am. 2018, Act 369, Eff. Mar. 29, 2019 ;-- 2018, Act 338, Eff. Feb. 21, 2025 ;-- Am. 2025, Act 2, Imd. Eff. Feb. 21, 2025

Compiler's Notes: Public Act 338 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018.For the transfer of powers and duties of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.See Mothering Justice v Attorney General, case no. 165325, July 31, 2024. The Michigan Supreme Court held that 2018 PA

369 was unconstitutional and, therefore void and revived the original initiative as enacted by the Legislature on September 5, 2018, effective February 21, 2025.

408.969 Multilingual outreach program.

Sec. 9.

The department shall develop and implement a multilingual outreach program to inform employees, parents, and persons who are under the care of a health care provider about the availability of earned sick time under this act. This program must include distribution of notices and other written material in English and in other languages to child care and elder care providers, domestic violence shelters, schools, hospitals, community health centers, and other health care providers.

History: 2018, Act 338, Eff. Mar. 29, 2019 ;-- Repealed 2018, Act 369, Eff. Mar. 29, 2019 ;-- 2018, Act 338, Eff. Feb. 21, 2025
Compiler's Notes: The repealed section pertained to a multilingual outreach program.See Mothering Justice v Attorney General, case no. 165325, July 31, 2024. The Michigan Supreme Court held that 2018 PA 369 was unconstitutional and, therefore void and revived the original initiative as enacted by the Legislature on September 5, 2018, effective February 21, 2025.

408.970 Retention of records.

Sec. 10.

An employer shall retain for not less than 3 years records documenting the hours worked and earned sick time taken by employees. To monitor compliance with the requirements of this act, an employer shall allow the department access to those records, with appropriate notice and at a mutually agreeable time. If a question arises as to whether an employer has violated an employeeâ€™s right to earned sick time under this act and the employer does not maintain or retain adequate records documenting the hours worked and earned sick time taken by the employee or does not allow the department reasonable access to those records, there is a presumption that the employer has violated the act, which can be rebutted only by clear and convincing evidence.

History: 2018, Act 338, Eff. Mar. 29, 2019 ;-- Am. 2018, Act 369, Eff. Mar. 29, 2019 ;-- 2018, Act 338, Eff. Feb. 21, 2025
Compiler's Notes: Public Act 338 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018.For the transfer of powers and duties of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.See Mothering Justice v Attorney General, case no. 165325, July 31, 2024. The Michigan Supreme Court held that 2018 PA 369 was unconstitutional and, therefore void and revived the original initiative as enacted by the Legislature on September 5, 2018, effective February 21, 2025.

408.971 Other law, regulation, requirement, policy, or standard, including collective bargaining agreement; scope and limitation of act.

Sec. 11.

(1) This act provides minimum requirements pertaining to earned sick time and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard, including a collective bargaining agreement, that provides for greater accrual or use of time off, whether paid or unpaid, or that extends other protections to employees.
(2) This act does not do any of the following:
(a) Prohibit an employer from providing more earned sick time than is required under this act.
(b) Diminish any rights provided to any employee under a collective bargaining agreement.

(c) Subject to section 12, preempt or override the terms of any collective bargaining agreement in effect prior to the effective date of this act.

(d) Prohibit an employer from establishing a policy that permits an employee to donate unused accrued earned sick time to another employee.

History: 2018, Act 338, Eff. Mar. 29, 2019 ;-- Am. 2018, Act 369, Eff. Mar. 29, 2019 ;-- 2018, Act 338, Eff. Feb. 21, 2025
Compiler's Notes: Public Act 338 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018.For the transfer of powers and duties of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.See Mothering Justice v Attorney General, case no. 165325, July 31, 2024. The Michigan Supreme Court held that 2018 PA 369 was unconstitutional and, therefore void and revived the original initiative as enacted by the Legislature on September 5, 2018, effective February 21, 2025.

408.972 Collective bargaining agreement.

Sec. 12.

(1) If an employer's employees are covered by a collective bargaining agreement in effect on the effective date of this act and the collective bargaining agreement conflicts with this act, this act applies beginning on the stated expiration date in the collective bargaining agreement, notwithstanding any statement in the agreement that it continues in force until a future date or event or the execution of a new collective bargaining agreement.

(2) If an employer's employee is covered by a contract, not including an employer policy signed by the employee, and all of the following requirements are satisfied, this act applies beginning on the stated expiration date in the contract, notwithstanding any statement in the contract that the contract continues in force until a future date or event or the execution of a new contract:

(a) The employer and employee signed the contract on or before December 31, 2024.

(b) The contract is effective for not longer than 3 years.

(c) The contract conflicts with this act.

(d) The employer notifies the department of the contract.

(3) If a small business did not employ an employee on or before February 21, 2022, the small employer is not required to comply with this act until 3 years after the date that the employer first employs an employee.

History: 2018, Act 338, Eff. Mar. 29, 2019 ;-- Am. 2025, Act 2, Imd. Eff. Feb. 21, 2025
Compiler's Notes: Public Act 338 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018.For the transfer of powers and duties of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

408.973 Rules.

Sec. 13.

The director may promulgate rules in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, as necessary to administer this act.

History: 2018, Act 338, Eff. Mar. 29, 2019 ;-- Repealed 2018, Act 369, Eff. Mar. 29, 2019 ;-- 2018, Act 338, Eff. Feb. 21, 2025
Compiler's Notes: The repealed section pertained to the authority to promulgate rules.See Mothering Justice v Attorney General, case no. 165325, July 31, 2024. The Michigan Supreme Court held that 2018 PA 369 was unconstitutional and, therefore void and revived the original initiative as enacted by the Legislature on September 5, 2018, effective February 21, 2025.

408.974 Severability.

Sec. 14.

If any portion of this act or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect, impair, or invalidate the other portions or applications of the act that can be given effect without the invalid portion or application, and to this end the provisions of this act are declared to be severable.

History: 2018, Act 338, Eff. Mar. 29, 2019 ;-- Am. 2018, Act 369, Eff. Mar. 29, 2019 ;-- 2018, Act 338, Eff. Feb. 21, 2025
Compiler's Notes: Public Act 338 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018.For the transfer of powers and duties of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.See Mothering Justice v Attorney General, case no. 165325, July 31, 2024. The Michigan Supreme Court held that 2018 PA 369 was unconstitutional and, therefore void and revived the original initiative as enacted by the Legislature on September 5, 2018, effective February 21, 2025.