

Maryland Sample Earned Sick and Safe Leave Policies

Overview

The Maryland Healthy Working Families Act requires that employers with 15 or more employees provide paid sick and safe leave for certain employees. It also requires that employers who employ 14 or fewer employees provide unpaid sick and safe leave for certain employees. In determining whether an employer is required to provide paid or unpaid earned sick and safe leave under the law, the number of employees is determined by calculating the average monthly number of employees during the immediately preceding year without regard to whether the employee is full-time, part-time, temporary, or seasonal.

These are sample policies for employers who have determined that their employees are covered by the Maryland Healthy Working Families Act.

The law requires that the Commissioner of Labor and Industry develop a model policy. The law provides that employers may:

1. award earned sick and safe leave at the beginning of the year; or
2. allow earned sick and safe leave to be accrued during the year.

The Commissioner has developed two different policies based upon the approach chosen by an employer, as well as a third policy for restaurant employers with tipped employees:

- Attachment A The policy for employers awarding earned sick and safe leave at the beginning of the year (*page 2*)
- Attachment B The policy for employers allowing earned sick and safe leave to accrue throughout the year (*page 4*)
- Attachment C The policy for tipped employees (employers with tipped employees who work in the restaurant industry have unique provisions) (*page 7*)

These model policies set forth the minimum requirements under the Maryland Healthy Working Families Act. For additional information on the law, please go to <http://www.dllr.state.md.us/paidleave/> or the text the law itself which can be found in §§ 3-1301 through 3-1311 of the Labor and Employment Article of the Maryland Annotated Code. An employer will need to customize its policy to reflect whether its employees are entitled to paid or unpaid sick leave as well as choose certain options which are indicated in the respective model policies.

ATTACHMENT A

Sample Policy for Employers Awarding Earned Sick and Safe Leave at the Beginning of the Year

Pursuant to Maryland law, employees are entitled to earn sick and safe leave at the rate of 1 hour for every 30 hours that an employee works up to a maximum of 40 hours. To comply with the law, employees will be awarded forty (40) hours of paid/unpaid sick leave at the beginning of each year. The year commences on _____ and ends on _____. The terms under which employees are permitted to use this leave are set forth below. Employees are not permitted to carry over any unused leave at the end of the year.

Employees will not be paid for any unused sick and safe leave upon termination of employment. If an employee leaves employment and is rehired within 37 weeks of leaving, any earned and unused sick leave that the employee had at the time of separation will be reinstated.

Leave Usage

Employees are not permitted to use leave during the first 106 calendar days of their employment.

An employee is allowed to use earned sick and safe leave under the following conditions:

- To care for or treat the employee's mental or physical illness, injury or condition;
- To obtain preventative medical care for the employee or the employee's family member;
- To care for a family member with a mental or physical illness, injury or condition;
- For maternity or paternity leave; or
- The absence from work is necessary due to domestic violence, sexual assault or stalking committed against the employee or the employee's family member and the leave is being used: (1) to obtain medical or mental health attention; (2) to obtain services from a victim services organization; (3) for legal services or proceedings; or (4) because the employee has temporarily relocated as a result of the domestic violence, sexual assault or stalking.

A family member includes a spouse, child, parent, grandparent, grandchild, sibling or legal guardian. For a complete list of family members included under the law, please see §3-1301(G) of the Labor and Employment Article of the Maryland Annotated Code.

Employees are permitted to use the leave in increments of not less than ___ hours [Employer Option but note that the minimum increment may not exceed 4 hours].

If the need to use sick and safe leave is foreseeable (for example a scheduled doctor's appointment), the employee must provide notice 7 days prior to leave use. Notice must be given _____ [Employer Option to insert the desired method of notice] and directed to _____. [Employer Option complete to whom]

If the need to use leave is not foreseeable, the employee must provide notice as soon as practicable.

A request for earned sick and safe leave may be denied if the employee fails to provide proper notice and the employee's absence will cause a disruption to the employer.

Employees may only use earned sick and safe leave for one of the listed authorized reasons. Employees using earned sick and safe leave for unauthorized purposes or who have demonstrated a pattern of abusing sick and safe leave may be denied the right to use earned sick and safe leave in the future.

If an employee uses sick and safe leave for more than two consecutive scheduled shifts, the employee must provide verification that the leave use was appropriate.

As indicated above, employees may not use sick and safe leave for the first 106 days of their employment. Employees who wish to use leave between the 107th through the 120th calendar days after beginning employment must provide verification that the leave use was appropriate as agreed upon at the time of hire. [Employer Option: To require this verification of use between 107th and 120th days, employer and employee must have mutually agreed at the time of hire that the employee would provide such verification].

[THE FOLLOWING SECTION APPLIES ONLY TO PRIVATE EMPLOYERS LICENSED UNDER TITLE 7 OR TITLE 10 OF THE HEALTH GENERAL ARTICLE TO PROVIDE SERVICES TO DEVELOPMENTALLY DISABLED OR MENTALLY ILL INDIVIDUALS]

Employees may be denied sick and safe leave use if (1) the need to use earned sick and safe leave was foreseeable; (2) the employer is unable to find a suitable replacement for the employee after exercising reasonable diligence; and (3) the employee's absence will cause a disruption of service to at least one individual with a developmental disability or mental illness.

Statement of Earned Sick and Safe Leave

With each pay period, employees will be provided with a statement of leave used and available leave.

[THIS MAY BE PROVIDED THROUGH AN ONLINE ELECTRONIC SYSTEM]

Notice

An employer is required to notify its employees that the employee is entitled to earned sick and safe leave along with an explanation of how earned sick and safe leave accrue and the purposes for which the leave may be used. Maryland law prohibits an employer from taking adverse action against an employee for exercising their rights under this law as well as prohibits an employee from making a complaint, bringing an action or testifying in an action in bad faith.

QUESTIONS

Questions

The Commissioner of Labor and Industry has oversight of issues related to earned sick and safe leave. The Commissioner may be contacted at ssl.assistance@maryland.gov.

ATTACHMENT B

Sample Policy for Employers Who Allow Employees to Accrue Leave Throughout the Year

Pursuant to Maryland law, employees are entitled to earn sick and safe leave at the rate of 1 hour for every 30 hours that an employee works up to a maximum of 40 hours per year. The year commences on _____ and ends on _____. An employee accrues earned sick and safe leave at a rate of at least one hour for every 30 hours the employee works, however, an employee is not entitled to earn more than 40 hours of sick and safe leave in a year.

An employee is not entitled to earn sick and safe leave during:

- (1) a two-week pay period in which the employee worked fewer than 24 hours total;
- (2) a one-week pay period if the employee worked fewer than a combined total of 24 hours in the current and preceding pay period; or
- (3) a pay period in which the employee is paid twice per month and the employee worked fewer than 26 hours in the pay period.

An employee who is exempt from the overtime provisions of the Fair Labor Standards Act is assumed to work 40 hours per week.

An employee may carry over any earned but unused sick and safe leave up to 40 hours but an employee may not accrue more than 64 hours of sick and safe leave at any time.

Employees will not be paid for any unused sick and safe leave upon termination of employment. If an employee leaves employment and is rehired within 37 weeks of leaving, any earned and unused sick leave that the employee had at the time of separation will be reinstated.

Leave Usage

Employees are not permitted to use leave during the first 106 calendar days of their employment.

An employee is allowed to use earned sick and safe leave under the following conditions:

- To care for or treat the employee's mental or physical illness, injury or condition;
- To obtain preventative medical care for the employee or the employee's family member;
- To care for a family member with a mental or physical illness, injury or condition;
- For maternity or paternity leave; or
- The absence from work is necessary due to domestic violence, sexual assault or stalking committed against the employee or the employee's family member and the leave is being used: (1) to obtain medical or mental health attention; (2) to obtain services from a victim services organization; (3) for

legal services or proceedings; or (4) because the employee has temporarily relocated as a result of the domestic violence, sexual assault or stalking.

A family member includes a spouse, child, parent, grandparent, grandchild, sibling, or legal guardian. For a complete list of family members included under the law, please see §3-1301(G) of the Labor and Employment Article of the Maryland Annotated Code.

Employees are permitted to use the leave in increments of not less than ___ hours [Employer option but note that the minimum increment may not exceed 4 hours].

[Employer Option] An employee may use earned sick and safe leave before the leave has accrued up to a maximum of ___ hours. If an employee wishes to use leave before it has accrued, the employee must sign an acknowledgement that any amount of earned sick and safe leave that is paid before it has accrued will be deducted from wages paid to the employee if the employee leaves employment prior to accrual.

If the need to use sick and safe leave is foreseeable (for example a scheduled doctor's appointment), the employee must provide notice 7 days prior to leave use. Notice must be _____ [Employer Option insert desired method of notice] and directed to _____. [Employer option insert to whom] If the need to use leave is not foreseeable, the employee must provide notice as soon as practicable.

A request for earned sick and safe leave may be denied if the employee fails to provide the required notice and the employee's absence will cause disruption to the employer.

Employees may only use earned sick and safe leave for one of the listed authorized reasons. Employees using earned sick and safe leave for unauthorized purposes or who have demonstrated a pattern of abusing sick and safe leave may be denied the right to use sick and safe leave in the future.

If an employee uses sick and safe leave for more than two consecutive scheduled shifts, the employee must provide verification that the leave use was appropriate.

As indicated above, employees may not use sick and safe leave for the first 106 days of their employment. Employees who wish to use leave between the 107th through the 120th calendar days after beginning employment must provide verification that the leave use was appropriate as agreed upon at the time of hire. [Employer Option: To require this verification of use between 107th and 120th days, employer and employee must have mutually agreed at the time of hire that the employee would provide such verification].

[THE FOLLOWING SECTION APPLIES ONLY TO PRIVATE EMPLOYERS LICENSED UNDER TITLE 7 OR TITLE 10 OF THE HEALTH GENERAL ARTICLE TO PROVIDE SERVICES TO DEVELOPMENTALLY DISABLED OR MENTALLY ILL INDIVIDUALS]

Employees may be denied sick and safe leave use if (1) the need to use earned sick and safe leave was foreseeable; (2) the employer is unable to find a suitable replacement for the employee after exercising reasonable diligence; and (3) the employee's absence will cause a disruption of service to at least one individual with a developmental disability or mental illness.

Statement of Earned Sick and Safe Leave

With each pay period, employees will be provided with a statement of leave used and available leave.

[THIS MAY BE PROVIDED THROUGH AN ONLINE ELECTRONIC SYSTEM]

Notice

An employer is required to notify its employees that the employee is entitled to earned sick and safe leave along with an explanation of how earned sick and safe leave accrue and the purposes for which the leave may be used. Maryland law prohibits an employer from taking adverse action against an employee for exercising their rights under this law as well as prohibits an employee from making a complaint, bringing an action or testifying in an action in bad faith.

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ATTACHMENT C

Sample Policy for Restaurant Employers with Tipped Employees

This policy applies to an employee who is employed in a restaurant industry and who is compensated as a tipped employee. Pursuant to Maryland law, employees are entitled to earn sick and safe leave at the rate of 1 hour for every 30 hours that an employee works up to a maximum of 40 hours per year. The year commences on _____ and ends on _____. An employee accrues earned sick and safe leave at a rate of at least one hour for every 30 hours the employee works, however, an employee is not entitled to earn more than 40 hours of sick and safe leave in a year.

An employee may carry over any earned but unused sick and safe leave but an employee may not accrue more than 64 hours of sick and safe leave at any time. An employee who is exempt from the overtime provisions of the Fair Labor Standards Act is assumed to work 40 hours per week.

Employees will not be paid for any unused sick and safe leave upon termination of employment. If an employee leaves employment and is rehired within 37 weeks of leaving, any earned and unused sick leave that the employee had at the time of separation will be reinstated.

An employee is not entitled to earn sick and safe leave during:

- (1) a two-week pay period in which the employee worked fewer than 24 hours total;
- (2) a one-week pay period if the employee worked fewer than a combined total of 24 hours in the current and preceding pay period; or
- (3) a pay period in which the employee is paid twice per month and the employee worked fewer than 26 days in the pay period.

Leave Usage

Tipped employees using paid sick and safe leave will be paid at the minimum wage rate that is in effect at the time the leave is taken.

Employees are not permitted to use leave during the first 106 calendar days of employment.

An employee is allowed to use earned sick and safe leave under the following conditions:

- To care for or treat the employee's mental or physical illness, injury or condition;
- To obtain preventative medical care for the employee or the employee's family member;
- To care for a family member with a mental or physical illness, injury or condition;
- For maternity or paternity leave; or
- The absence from work is necessary due to domestic violence, sexual assault or stalking committed against the employee or the employee's family member and the leave is being used: (1) to obtain medical or mental health attention; (2) to obtain services from a victim services organization; (3) for

legal services or proceedings; or (4) because the employee has temporarily relocated as a result of the domestic violence, sexual assault or stalking.

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Employees are permitted to use the leave in increments of not less than ___ hours [Employer option but please note that this minimum increment may not exceed 4 hours].

[Employer Option] An employee may use earned sick and safe leave before the leave has accrued up to a maximum of ___ hours. If an employee wishes to use leave before it has accrued, the employee must sign an acknowledgement that any amount of earned sick and safe leave that is paid before it has accrued will be deducted from wages paid to the employee if the employee leaves employment prior to accrual.

If the need to use sick and safe leave is foreseeable (for example a scheduled doctor's appointment), the employee must provide notice 7 days prior to leave use. Notice must be _____ [Employer Option insert desired method of notice] and directed to _____. [Employer option insert to whom] If the need to use leave is not foreseeable, the employee must provide notice as soon as practicable.

A request for earned sick and safe leave may be denied if the employee fails to provide the required notice and the employee's absence will cause disruption to the employer.

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If an employee uses sick and safe leave for more than two consecutive scheduled shifts, the employee must provide verification that the leave use was appropriate.

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Alternate Shifts in Lieu of Paid Sick and Safe Leave for Tipped Employees

If a tipped employee needs to use earned sick and safe leave during a regularly scheduled shift, the employee may request the opportunity to work additional hours or trade shifts with another employee in lieu of taking paid leave. Such a request must be in writing and directed to _____. Where feasible such a request will be granted. However, the employer reserves the right to deny such a request in which case the employee will be paid the current minimum wage rate for those hours that the employee uses earned sick and safe leave.

Statement of Earned Sick and Safe Leave

With each pay period, employees will be provided with a statement of leave used and available leave.

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