

Wage & Hour Tip: Paid Sick Leave Law

Paid Sick Leave Law Creates New Employer Obligations for Intermittent, Temporary and Seasonal Workers, Including Interns

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Employers who use temporary or seasonal employees including summer interns should already be aware of the importance of ensuring that those employees are **paid in compliance with federal and state law**. Massachusetts employers should also be aware that the new Massachusetts Earned Sick Leave Law (the “Law”) has created additional wage and hour obligations for some temporary and seasonal workers, including summer interns. (Generally, the Law requires that employers with more than 11 employees offer both full and part-time employees paid sick time; employees with fewer than 11 employees are required to offer unpaid sick time).

The **Massachusetts Attorney General’s regulations** addressing the Law include a provision which entitles temporary and seasonal employees like interns who work intermittently for an employer (e.g., work for the same employer for multiple summers) to sick time. The result of these regulations is that employers covered by the Law now need to track the accrual of sick time for temporary and seasonal workers, and permit those employees to take sick time once they have worked for the employer for more than 90 days.

Under the regulations, an employee with a break in service of fewer than four months will maintain the right to use any unused earned sick time accrued before the break in service. If the employee has a break in service of between four and 12 months, the employee will maintain the right to use earned sick time accrued before the break in service, but only if the employee’s unused bank of earned sick time equals or exceeds 10 hours. Employees with a break in service of greater than 12 months will not retain any accrued sick time.

Although temporary or seasonal employees are subject to the Law’s provision that employees are only entitled to use accrued sick time 90 days after the employee’s first day of work, employees with a break in service of fewer than twelve months will maintain vesting days from the employer and will not need to restart the 90-day vesting period upon their return to the employer before they can use earned sick time.

For example, an intern who works full time for an employer from June until August will likely have accrued more than 10 hours of sick time. If that intern returns to the employer the following June, he or she will (upon working 90 total days for the employer, including days worked before the break in service) be entitled to use that accrued sick time.

For more information on the use of temporary or seasonal employees including interns or the accrual of paid sick time, please contact a member of the **Employment Law Group**.