

Maryland's Paid Sick and Safe Leave Law: What Small Businesses Need to Know

The Maryland Healthy Working Families Act allows employees to take time off from work to address their health or a family member's illness without losing a paycheck. This document is intended to help answer questions small employers in Maryland might have about the paid sick and safe leave law and its effect on small businesses.

When do employers need to start complying with the law?

- Employers were required to comply with the law beginning February 11, 2018.

Which employers must provide sick and safe leave?

- All employers with employees whose primary work location is in the state of Maryland must comply with the law. Employers with 15 or more employees must provide paid sick leave, while employers with 14 or fewer employees must provide unpaid sick leave.

Which employers and employees are exempt or not covered?

The law does not apply to:

- Employees under the age of 18.
- Employees who regularly work fewer than 12 hours per week.
- Individuals exempt as independent contractors under unemployment law, including real estate brokers and salespeople.
- Employees of temporary staffing and employment agencies that provide temporary services to another business.
- Construction workers with a union contract that expressly waives coverage.
- Health and human services employees who work on as-needed basis.
- Employees of agricultural operations.

What if my business already provides paid leave?

- As long as an employer has a paid leave policy or paid time off policy that meets the law's leave time requirements, and allows that time to be used for the same purposes, the employer is not required to provide any additional leave.

How does the paid sick and safe leave law work?

- Employees will earn one hour of paid sick leave for every 30 hours worked; this amount is capped at five days (40 hours per year). Employees can roll over up to 40 hours of paid sick time, but employers are allowed to cap annual use and total accrual of paid sick leave at eight days (64 hours). Employers can require that leave is taken in set increments, which cannot exceed four hours but can be in smaller increments chosen by the employer.
- Employers can also choose to provide 40 hours of paid leave in a lump sum at the beginning of the year. If they do so, they are not required to permit any carry over of paid sick leave.
- Employees may use paid sick leave to care for themselves or a sick family member, including immediate family members, grandparents, siblings, foster children and stepsiblings.
- Employers may prohibit an employee from using leave during the first 106 calendar days of employment.

- Employees who are laid off will have their previously accumulated time reinstated if they are rehired within 37 weeks, unless the unused leave is paid out upon separation.

What are an employer's obligations under the paid sick and safe leave law?

- Employers must notify their employees of their rights to paid leave, either through a posted notice or written guidance distributed to all employees. Maryland's Department of Labor, Licensing and Regulation (DLLR) has created an [employee notice poster and sample policies](#) to use in updating employee handbooks.
- Employers must keep records of how much earned sick leave is accrued per pay period, although the law does not specify how an employer must notify employees. They must also keep records of leave used by each employee for at least three years.

How is a business' number of employees calculated?

- Employers should count the average number of employees employed during the immediately preceding year, and include all part-time, temporary, seasonal and full-time employees working in Maryland, including employees under the age of 18.
- Employees employed by a company outside of the state of Maryland are not considered towards the threshold determination. An employer will only be deemed to have met the threshold requirement for paid leave if they have 15 employees employed in Maryland. These rules are being finalized by Maryland's [Department of Labor, Licensing and Regulation](#) (DLLR) and are subject to change.
- For the purposes of the law, a "year" is any consecutive 12-month period determined by an employer. Most employers will find it helpful to use the "calendar year" that they use for calculating wages and benefits.
- If an employer has multiple locations, the total number of employees should include employees at all locations in Maryland, if the multiple locations collectively employ at least 15 employees.
- The law applies to all employees employed in Maryland, regardless of where the employee lives.

Can an employer require verification of an employee's sick leave?

- Employers may require verification that leave was used appropriately after two consecutive missed shifts. Employers may also require seven-day advance notification for foreseeable leave, such as for a doctor's appointment. The law allows employers to deny leave if an employee does not provide timely notice or if the absence will cause a disruption to the employer.
- Employers may also adopt and enforce a policy prohibiting improper use or patterns of abuse.

What if my local county also has a paid sick leave law?

- The law preempts local paid sick leave laws enacted on or after January 1, 2017. The only county that enacted a sick leave law prior to this date was Montgomery County. Businesses in this county must comply with both county and state regulations.

How can employers confirm whether or not the law applies to them?

- Employers can contact the Office of Small Business Regulatory Assistance, which was established to assist small businesses in complying with the new paid sick leave law. Employers can receive guidance on specific questions by emailing small.business@maryland.gov.
- Employers can also read through the [FAQs](#) issued by DLLR.