
What Michigan Employers Need to Know About New Paid Sick Time, Minimum Wage Increase, and Recreational Marijuana Use Laws

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The end of 2018 has brought with it a number of legal changes that will affect Michigan employers in the coming year. The Paid Medical Leave Act, the Workforce Opportunity Wage Act, and Proposal 1, which legalized recreational marijuana use, promise to make 2019 a busy year for employers. Do you have questions about how these laws will impact your organization? Is your handbook compliant? If not, we can help prepare a plan for compliance.

Paid Medical Leave Act (PMLA)

This law¹ requires employers with 50 or more employees to provide eligible employees with at least 40 hours of paid medical leave per benefit year. Eligible employees do not include exempt employees, or employees covered by a collective bargaining agreement. This is a rather technical statute, and we recommend that employers confirm compliance with an attorney before implementing a policy. With that said, other notable aspects of the law include:

- The exclusion of employees who worked, on average, fewer than 25 hours per week during the preceding calendar year from eligibility for PMLA benefits.
- The ability for an employer to limit accrual of paid medical leave to 1 hour per week (if an employee works more than 35 hours) and 40 hours per year.
- The ability for employers to limit the amount of time that can be carried over from one benefit year to the next to 40 hours.
- The option for employers to make the 40 hours of leave time available at the beginning of the benefit year and avoid having to allow rollover time.
- Medical leave can be used in one-hour increments or more if an employer has a policy that requires larger blocks of time.

One of the most important aspects of this law to understand is what group of employees is eligible for paid leave. Employers will likely find that they are either (1) not subject to PMLA, (2) already compliant, or (3) many of their employees are not eligible for paid medical leave.

Employees may use sick time for themselves or a defined family member, and may take paid leave time for the following covered reasons:

- Recovery from mental or physical illness;
- Medical diagnosis;
- Treatment;
- Preventative care;
- Personal time related to domestic violence or sexual assault;
- Exposure to a communicable disease that would jeopardize the health of others as determined by health authorities or a health care provider; or
- To care for employee's child, whose school or place of care has been closed by order of a public official due to a public health emergency

We are here to help if you need assistance navigating this new law.

Minimum Wage Increase and Tipped Employees

As anticipated, the Legislature recently passed amendments to the minimum wage that significantly alter the original language of the law.

Like the PMLA, the Improved Workforce Opportunity Wage Act will become effective on April 1, 2019. The recent amendments to this law include the following changes:

- Michigan's current minimum wage of \$9.25/hour will increase on April 1, 2019, to \$9.45/hour, with \$0.20/hour increases every January 1 until the minimum wage reaches \$12.00/hour. This would occur on January 1, 2030.
- The tipped employee minimum wage will be established at \$3.52/hour rather than a percentage of the general minimum wage.
- The tipped employee minimum wage will increase by \$0.04/hour annually until it reaches \$4.00/hour.

There are additional compliance aspects of the revised law that will apply to some employers. We would be happy to look at the specific nature of your business and

advise whether you need to make changes to your procedures to comply with the changes in the law.

Marijuana

Voters in Michigan passed Proposal 1, which allows individuals over the age of 21 to legally possess and recreationally use marijuana in Michigan. This law became effective on December 6, 2018. The law provides the following guidance to employers:

- Employers are not required to permit or accommodate conduct in the workplace or on an employer's property that the initiative otherwise allows. In plain language, this section is saying that employers don't have to allow employees to use marijuana in the work place, such as during smoke breaks or in employee vehicles during other rest periods.
- Employers are not prohibited from disciplining an employee who violates a workplace drug policy or is discovered to be working under the influence of marijuana. The law allows employers to keep and enforce their policies on drugs in the workplace even if those policies prohibit marijuana use or drug test results that are positive for THC.
- Employers may refuse to hire, discharge, discipline, or take other adverse employment action against a person who is in violation of a workplace drug policy or is discovered to be working under the influence of marijuana. Again, this policy makes even more explicit an employer's ability to take adverse employment action against an employee who is discovered to have violated a drug policy. This section goes further and allows employers to prohibit marijuana use or use drug test results that are positive for THC in employment decisions.

Now is a great time to consider updating your handbook with the guidance of a professional. Please feel free to reach out to us.

¹This act, as it was originally drafted imposed a number of significant obligations on all employers in Michigan. At the end of 2018, the Legislature approved a resolution to the bill that would modify many of the key components of the law. The revised bill was signed by the Governor on December 14, 2018. It will become effective on April 1, 2019.

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