

The Maryland Healthy Working Families Act

REQUIRES EMPLOYERS IN MARYLAND TO PROVIDE PAID OR UNPAID LEAVE TO EMPLOYEES FOR THEIR OWN OR FAMILY MEMBERS' ILLNESSES OR MEDICAL APPOINTMENTS, FOR MATERNITY OR PATERNITY LEAVE, AND FOR ABSENCES ASSOCIATED WITH DOMESTIC VIOLENCE OR SEXUAL ABUSE.

EMPLOYERS REQUIRED TO COMPLY WITH THE ACT

Pursuant to The Maryland Healthy Working Families Act, most employers in the State of Maryland must provide sick and safe leave to each employee, including employees of restaurants, bars, temporary, staffing firms and part time employees. The Montgomery County Earned Sick and Safe Leave Law (Chapter 27 Human Rights and Civil Liberties §27 -7 & 27.8) is **NOT PREEMTED** by this Act.

ACCRUAL START DATE

Leave accrues at the beginning of employment, provided that the accrual need not commence prior to the effective date of this Act. (02/11/2018)

ACCESSING LEAVE

An employee must be allowed to use leave no later than after **106** calendar days of employment with the employer.

An employer may require notice of not more than 7 days in advance if the employee's need to use leave is foreseeable. If the need to use leave is NOT foreseeable, then the employee must provide notice to the employer as soon as practicable and comply with the employer's procedural requirements for requesting and reporting leave, provided that those requirements do not interfere with the employee's ability to use accrued leave. An employer may not require that an employee who is requesting leave search for or find an individual to work in the employee's stead during the time the employee is taking the leave. An employee may take leave in the smallest amount allowable by the employer. The employer may not require an employee to take leave in an increment greater than 4 hours

An employer may deny a request to use leave if the employee fails to provide notice as stated above, the employee's absence will cause a disruption to the employer, or the employer is a private employer licensed to provide services to developmentally disabled or mentally ill individuals under Title 7 or Title 10 of the Health – General Article of the Maryland Code.

ENFORCEMENT

An employer must keep records of earned sick leave use and accrual for each employee for at least 3 years. The Commissioner may inquire with employers' records to determine compliance with this Act.

An employee may, in good faith, bring a complaint within 3 years of a suspected violation of this act. Employee complaints against the employer will be investigated by the Commissioner within 90 days of the complaint. The Commissioner will attempt to resolve the issue through mediation, If the complaint is not resolved and the Commissioner find the employer to have violated this Act, then the Commissioner will issue an order to the employer to pay the employ full monetary value of the unpaid sick leave, at the Commissioner's discretion up to 3 times the monetary value of the unpaid sick leave, and any actual economic damages.

An employer's failure to comply to the order allows the employee and Commissioner to pursue further civil action and the Court to award more damages to the employee, including punitive damages.

The Maryland Healthy Working Families Act

NUMBER OF HOURS ACCRUED

Type of leave and accrual of leave is determined by the type of business, the number of employees an employer has, and the number of hours an employee works. An employer may use an existing leave policy if the employer offers a paid time off policy that meets or exceeds the accrual and usage requirements of this Act. An employer may award the full amount of sick and safe leave an employee would earn at the beginning of each year rather than awarding leave as it accrues. Employers are not required to pay out accrued leave upon the employee’s dismissal from employment. See the following chart for a breakdown of exemptions and leave accrual for certain employees.

<p>Exempted Employees</p>	<ul style="list-style-type: none"> • An employee that works less than 12 hours a week. • An employee in the construction industry and is covered by a collective bargaining agreement. • An employee that is called to work by the employer on an as needed basis in a health or human services industry and can reject or accept the shift offered by the employer, is not guaranteed to be called by the employer, and is not employed by a temporary staffing agency. • An employee of a unit of State or Local government if the unit’s accrual and use requirements meet or exceed this Act. • An employee in the Agriculture Sector on an agricultural operation under §5 – 403 (A) of the Courts article of Maryland Code • An employee employed by a temporary services agency to provide temporary staffing services to another person and the temporary services agency does not have day to day control over the work assignments and supervision of the employee while the employee is providing temporary staffing services. • An employee directly employed by an employment agency to provide part – time or temporary services to another person.
<p>If an Employer has:</p>	<p>15 or more employees, then the employer must provide <u>PAID</u> sick leave. 14 or fewer employees, then the employer must at least provide <u>UNPAID</u> sick leave.</p>
<p>Accrual Rate</p>	<p>1 hour per 30 hours worked</p>
<p>An Employer may <u>NOT BE REQUIRED</u> to allow an Employee to:</p>	<ul style="list-style-type: none"> • Earn more than 40 hours of sick leave in a year • Use more than 64 hours of sick leave in a year • Use leave for more than two consecutive shifts without verification leave was used properly. • Carry over more than 40 hours of sick leave to a consecutive year • Accrue a total of more than 64 hours of sick leave at any time • Accrue sick leave during: <ol style="list-style-type: none"> i. A “2 week pay period” in which the employee worked less than 24 hours total. ii. A “1 week pay period” if the employee worked fewer than a combined 24 hours in the current and immediately preceding pay period. iii. A pay period in which the employee worked fewer than 26 hours in the pay period and the employee is paid twice a month regardless of the number of weeks in the pay period.

The Maryland Healthy Working Families Act

ADDENDUM – SEASONAL EMPLOYEES & REHIRED EMPLOYEES

If an employee is rehired within **37 weeks** after leaving the employment of the employer, then the employer **MUST** reinstate any unused accrued leave to the employee that the employee had prior to dismissal from employment. If the employer opts to pay out the monetary value of the employee's unused earned leave, then the employer is **NOT** required to reinstate the unused leave.

If an employee uses leave during the period between the first **107 and 120 (both inclusive)** calendar days of employment, then the employer may require verification that the leave was used properly, provided that the employee agreed to provide verification under terms mutually agreed to by the employee and employer at the time of hire.

ADDENDUM – TIPPED RESTAURANT EMPLOYEES

This Act allows for the following exceptions for the restaurant industry.

Under this Act, a restaurant is defined as an establishment that accommodates the public, is equipped with facilities for preparing and serving regular meals, and has average daily receipts from the sale of food that exceed the average daily receipts from the sale of alcoholic beverages.

A tipped restaurant employee defined under §3 – 419 of the Labor & Employment Article of the Maryland Code and is entitled to paid leave under §3-1304 of this Act.

If the employee needs to take earned sick leave and requires the employer to arrange coverage of the shift, then the employer shall have the discretion to offer the employee a shift of the same number of hours in the same pay period or following pay period **OR** offer the employee paid leave in the wage amount equal to §3-413 of the Labor & Employment Article (**NOT** the reduced minimum wage normally reserved for tipped employees, but the minimum wage standard).

An employer that does not offer this choice must pay the employee in the amount defined under §3-413 for earned leave used. An employer may deduct an absence from the employee's earned sick leave even if the employer facilitates a shift swap.

An employer is not required to consent to an employee's request to work additional hours or trade shifts if the additional hours or trade in shifts would result in the employer being required to pay overtime to the employee.