



How Michigan's Earned Sick Time Act Will Impact the Agriculture Industry

Anthony M. Dalimonte

Farm Progress: Michigan Farmer

November 21, 2024

This article was reprinted in Farm Progress: Michigan Farmer.

The Michigan Earned Sick Time Act (ESTA) was enacted following a 2024 Supreme Court ruling, compelling the implementation of 2018 ballot initiatives on minimum wage increases and paid sick leave. This Act, set to take effect on February 21, 2025, mandates that Michigan employers offer paid sick leave to all employees, including full-time, part-time, and seasonal workers, impacting every sector, including agriculture.

Under ESTA, employees accrue one hour of sick leave for every 30 hours worked, with a maximum of 72 hours of paid sick time each year for employers with 10 or more employees. For small employers (those with fewer than 10 employees), the maximum is 40 hours of paid leave with an additional 32 hours of unpaid sick leave if needed. The Act permits employees to use sick time for personal or family illness, medical appointments, public health emergencies, exposure to communicable diseases, and childcare disruptions due to public health orders.

1. Key Requirements for Agriculture Employers

For Michigan agriculture employers, ESTA introduces a number of important requirements and considerations:

- 1. Employee Coverage:** ESTA applies to all businesses in Michigan, including farms, regardless of size. Seasonal, temporary, and part-time agricultural employees are all eligible for paid sick leave. This means that farms relying on a temporary or seasonal workforce, especially during planting and harvesting seasons, must now account for sick leave accrual even for short-term employees.

AUTHORS/ CONTRIBUTORS

Anthony M. Dalimonte

PRACTICE AREAS

Agri-Business

Employer Services

Employment Law

Employment Litigation

- 2. Sick Leave Accrual:** Sick leave accrues at a rate of one hour for every 30 hours worked. Employers with fewer than 10 employees are required to offer up to 40 hours of paid sick leave, plus an additional 32 hours of unpaid sick leave. For larger agricultural operations, the cap is 72 hours of paid leave. Employers are permitted to define a "year" in any consistent 12-month period, allowing some flexibility in managing sick leave cycles around seasonal work.
- 3. Documentation and Notice:** ESTA limits employer authority to require advance notice or documentation for sick leave. While employers may request documentation for absences of more than three days, shorter absences cannot be conditioned upon a doctor's note. Moreover, in cases of unforeseeable illness, employees are only required to notify the employer "as soon as practicable." This lack of control could pose challenges for farms during peak times when sudden absences could disrupt workflow.
- 4. Retaliation and Absence Control Policies:** Employers are prohibited from treating ESTA-protected sick leave as grounds for disciplinary action. This means that taking ESTA leave cannot result in penalties under attendance or absence control policies. Employers must also display notices informing employees of their rights under ESTA and provide documentation at hiring that outlines sick leave accrual and usage.
- 5. Record-Keeping:** The Act requires that records of hours worked and sick leave used, be kept for at least three years. For farms without dedicated HR departments, this record-keeping requirement may add an administrative burden.

2. Implications for Michigan's Agriculture Industry

The agriculture industry, known for its reliance on seasonal and part-time labor, will likely experience significant operational changes under ESTA. Here are the major areas agriculture employers need to consider:

- 1. Impact on Seasonal Workforce:** ESTA applies equally to seasonal and temporary workers, who often make up a significant portion of the labor force in agriculture. Farms must track and manage sick leave accrual, even for employees working short-term assignments. With many employees rotating seasonally, record-keeping and compliance could add administrative burdens and costs, as farms will need to ensure that seasonal staff accrue, use, or carry over any remaining sick leave if rehired within six months.
- 2. Compliance Costs and Administration:** The Act's requirements for tracking hours, accrual, and usage mean that agricultural businesses may need to implement or upgrade payroll systems to manage these records accurately. Farms typically focused on lean operations may face a new administrative cost to stay compliant, especially since record-keeping must be maintained for at least three years.
- 3. Labor Availability During Peak Seasons:** Agriculture relies on high availability of labor during peak seasons like planting and harvest. ESTA's protections make it difficult to restrict employees from taking paid leave even during critical times. ESTA's limits on requiring advance notice or documentation for short absences mean that farms have limited recourse to prevent or plan for sudden, multi-day absences.



4. Increased Payroll and Labor Costs: Smaller agricultural employers face financial challenges under ESTA's accrual and carry-over policies. Farms with fewer than 10 employees may cap paid leave at 40 hours but would still need to accommodate up to 32 additional hours of unpaid sick leave if required. For these businesses, even a modest increase in labor expenses can impact profitability.

While ESTA presents new challenges for Michigan's agriculture sector, understanding the requirements and planning for compliance can help mitigate potential disruptions. Employers are encouraged to review their sick leave policies, ensure proper record-keeping, and prepare for the administrative demands associated with ESTA compliance. For guidance, farms should also consider consulting with legal counsel or human resources specialists to develop strategies that align with the Act while supporting business continuity.

Foster Swift Collins & Smith will continue to monitor developments in Michigan's paid sick leave law. In the meantime, reach out to one of our employment lawyers to review your current paid sick leave policies to ensure they comply with current law.