



12.04.20

Maine Final Rules for New Paid Leave Law

Background

The Maine Department of Labor (MDOL) has adopted final rules and issued guidance for the state's paid leave law, which takes effect January 1, 2021. Maine is the first state to require private employers to provide earned paid leave to employees not just for sick time, but for any reason.

Summary

The final rules and guidance define key terms and clarify various aspects of the law. The law applies to all employers with more than 10 employees across all locations in Maine for more than 120 days in any calendar year, except for employers in a seasonal industry who submit the required report/documentation under state law.

Pay During Leave

Employers must pay employees at their regular rates or salary. The base rate of pay for purposes of this leave is identical to the regular rate of pay for overtime purposes, according to the final

This content is provided with the understanding that HR Knowledge is not rendering legal advice. While every effort is made to provide current information, the law changes regularly and laws may vary depending on the state or municipality. The material is made available for informational purposes only and is not a substitute for legal advice or your professional judgment. You should review applicable laws in your jurisdiction and consult experienced counsel for legal advice. If you have any questions regarding this content, please contact [HR Knowledge](#).

rules. The base rate is calculated by dividing the total earnings for the week immediately prior to the leave taken by the total hours worked, according to the guidance.

Accrual and Carryover

- Employees will accrue one hour of paid leave for every 40 hours worked.
- Employers can choose to frontload the 40 hours at the beginning of the calendar year or on the employee's anniversary date of employment.
- Employers may require a waiting period of 120 days before employees can start using their accrued sick leave.
- Employees with accrued and unused paid leave may carry forward a maximum of 40 hours into the following calendar year.
- The final rules clarify that if employees carry over less than 40 hours, they can add to those hours until they reach the 40 cap.
 - For example, if the employee carries over eight hours of this leave from 2021, the employee would be only entitled to accrue 32 hours of this leave in 2022, according to the MDOL guidance.
- The 40 hours of paid leave may be frontloaded at the beginning of the calendar year, or on the employee's anniversary date, as long as the employee receives no less paid leave than if they had earned it week by week.
 - The MDOL guidance states that if the employee uses frontloaded leave before it would have been earned and employment then ends, the leave may be pro-rated and deducted from their final paycheck, provided that the terms of employment or the employer's established practice include provisions addressing such scenarios.

Employee Notice

- Employers may require up to four weeks' notice for use of paid leave — but only when they have a written policy outlining this notice requirement.
- In cases of emergencies or unexpected illnesses, employees must provide as much advance notice of leave as possible under the circumstances.

Payout at Separation

Employers must pay out any unused but accrued paid leave if they have any other policies/practices that pay out unused leaves (such as vacation or PTO).

Employer Posting

The state has also published an updated Regulation of Employment poster that includes the new paid leave law.

Employer Next Steps

- Covered Maine employers should ensure compliance with the law and final rules by January 1, 2021.
- If you are a covered employer with employees in Maine, HR Knowledge recommends that you review your existing policies to ensure compliance with the Earned Paid Leave law before its effective date of January 1, 2021.
 - If you are a Full-Service or Virtual HR client, we can assist you in updating your policies.
- All Maine employers must display the [poster](#).
- You can read more about Maine Earned Paid Leave [here](#).

The People Simplifying HR

For almost twenty years, HR Knowledge has made it our mission to demystify the complex and daunting process of HR management. We do more than just provide the level of service and technology you'd expect from an industry leader. We combine unparalleled passion for service with our decades of HR, payroll, and benefits experience to provide our clients with personalized and actionable advice that is second—to—none. From managed payroll to employee benefits to HR support, we can help your organization thrive, grow, and reduce operating costs—no matter what industry you serve. Whether you're interested in our Full-Service solution or just need your employee handbook written, HR Knowledge can help you minimize risk while staying on top of compliance regulations. The bottom line? We're not just another cloud-based technology company that also does HR, #WeAreHR. [Get the scoop](#) on how we can help you simplify HR.



@WEAREHRK