

Maryland Healthy Working Families Act (House Bill 1) - Enforcement and Implementation

small.business@maryland.gov

Maryland Employers and Employees:

Governor Larry Hogan understands the business community has many questions regarding the Maryland Healthy Working Families Act, so he established the Office of Small Business Regulatory Assistance (OSBRA) within the Department of Labor, Licensing and Regulation to assist small businesses in complying with the law, as well as an email address where employers may direct specific questions: small.business@maryland.gov.

To assist employers with compliance, the department is developing draft guidance documents and model policies, including an extensive Q&A document based on questions received through small.business@maryland.gov, and will continue to provide answers to specific questions upon request. These documents will be emailed to stakeholders and published to DLLR's paid leave website at www.dllr.maryland.gov/paidleave.

Before promulgating official guidance documents, the department encourages stakeholder input to be certain that the draft guidance documents address all concerns. Comments on these draft guidance documents and specific implementation questions should be directed to small.business@maryland.gov. Following a public comment period, the department will finalize the policies based on stakeholder input and include any amendments to the Maryland Healthy Working Families Act from this General Assembly session.

The General Assembly is in session until April 9, 2018, and there are several bills that could affect this legislation. Although HB1 goes into effect on February 11, 2018, bills have been introduced that would substantially impact the law.

February 11, 2018 Effective Day: *What you need to know*

Emergency legislation to delay implementation of this law until July 1, 2018, is moving in the Maryland Senate. On Friday, February 2, it passed the Senate Finance Committee and will next be considered by the full Senate. After that, it would go to the House of Delegates for consideration. If this bill should pass before February 11, 2018, the Department of Labor will notify employers. However, in the event implementation is not delayed, employers should be prepared to begin tracking sick and safe leave accrual on February 11, 2018.

In anticipation of the February 11 effective date, the department would like to highlight the following information for employers. Please be advised that some of this may be subject to change based on stakeholder input and any amendments to the law.

- Employers with 15 or more employees that do not currently offer at least one hour of paid leave for every 30 hours that an employee works must establish a method to provide employees with sick and safe leave that is consistent with the law.
 - Accrual will commence on February 11, 2018, when the bill becomes effective.

- Employers that have an existing PTO policy that provides leave in an amount equal to or greater than the amount that is provided for under the law do not have to provide additional leave.
 - The department strongly encourages employers to review their existing policies to make sure that the amount of leave they provide for, as well as the terms of leave usage, are equal to or greater than the leave provided for under the law.
 - Additionally, the department strongly encourages such employers to advise employees that sick and safe leave is covered by the existing PTO the employer provides and that any additional sick and safe leave will not be provided.

- Employers with fewer than 15 employees must allow unpaid sick and safe leave.
 - In determining whether an employer has 15 or more employees, the department will consider those employees employed in the state of Maryland.
 - All employees employed in the state of Maryland will count towards this determination, regardless of hours worked or status within the business.

- Both paid and unpaid leave will accrue at the rate of one hour of leave for every 30 hours worked.
 - If an employee works primarily in another state but performs work in Maryland that is incidental to his or her work performed elsewhere, the employee would not be entitled to accrue sick and safe leave for those incidental hours or work performed in Maryland.
 - If an employee performs the majority of his or her work in Maryland, the employee is entitled to accrue sick and safe leave for all time worked including any incidental work that is performed in another state.

- Employers must provide for the accrual of leave beginning on February 11, 2018.
 - Employees employed for at least 106 days may use leave as it is accrued. Employees employed less than 106 days on February 11, 2018, and new employees hired after February 11, 2018, must wait 106 days from their date of hire to begin using leave.

- Eligible employees are those that regularly work more than 12 hours a week.
 - For more information on exemptions, please refer to the Committee on Paid Leave Final Report [HERE](#).

- The maximum amount of leave that an employee can accrue in one year is 40 hours.

- An employer may elect to “front load” the leave at the beginning of the year. The leave would then be available for immediate use by employees, but employees would not be permitted to carry over any unused leave.
 - Employers are permitted to determine their own year for purposes of leave calculation.

The department has already received extensive public comments as well as requests for technical assistance through the recently established small.business@maryland.gov address. Employers and employees are encouraged to send specific questions and concerns to this email address so the department can continue to address any concerns from stakeholders, and provide guidance on implementation.

You may read a copy of the Maryland Healthy Working Families Act [HERE](#).

Questions or comments regarding this distribution may be directed to small.business@maryland.gov.

Questions or comments regarding the DLLR website may be directed to dloitwebmaster-dllr@maryland.gov.

Maryland Department of Labor

500 N. Calvert Street

Baltimore, Maryland 21202