

Management Alert



If Pain, Yes Gain—Part XLIII: Delay Efforts Stall, Maryland Sick Leave Symptoms Set to Begin

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Seyfarth Synopsis: Legislative efforts to delay the Maryland Healthy Working Families Act's February 11, 2018 effective date have been unsuccessful thus far. While the state legislature continues to work on an antidote, its prognosis for passing such a bill before February 11 looks bleak. As a result, employers should take steps immediately to meet the Act's requirements by its rapidly approaching effective date.

On January 12, 2018, Maryland became the [ninth state to enact a mandatory paid sick leave law](#),¹ after the Maryland Senate voted to override Governor Larry Hogan's 2017 veto of a paid sick leave bill that was passed during the state's 2017 legislative session. In light of the veto override, the Maryland Healthy Working Families Act ("HWFA" or the "Act") was scheduled to go into effect 30 days after the override, i.e., on February 11, 2018.

A 30-day turnaround from enactment to being in effect is uncommon in the paid sick leave landscape, especially for statewide laws. For example, covered employers had more than six months to prepare for the California, Massachusetts, Oregon, and Arizona statewide paid sick leave laws after they were enacted. Rhode Island employers have more than nine months to prepare for the state's paid sick leave law's July 1, 2018 effective date. And Washington employers had more than a year to get ready for the Washington statewide paid sick leave law before it went into effect in January 2018.

Aware of the administrative and enforcement challenges created by the current February 11 effective date, the Maryland state Senate proposed Senate Bill (SB) 304. SB 304 is an emergency legislation seeking to delay the implementation of the HWFA. Following amendments in committee and from the full state Senate, SB 304 seeks to delay the Act's effective date until July 1, 2018.

Yesterday, the state Senate passed SB 304, as amended. Unfortunately, it must also pass in the Maryland House of Delegates. We will continue to monitor the HWFA effective date and provide any updates on whether this date is extended, either before or after February 11.

As a reminder, the Act requires covered employers with 15 or more employees to provide eligible employees with paid sick and safe leave benefits, while employers with fewer than 15 employees must provide eligible employees with unpaid sick and safe leave benefits. All eligible employees are entitled to accrue sick and safe leave at a rate of at least one hour for every 30 hours worked. Under the Act, employers are not required to allow employees to accrue more than 40 hours of sick and safe leave per year, nor are employers required to allow employees' bank of accrued, unused sick and safe leave to reach more

¹ The other eight states that have passed a statewide mandatory paid sick leave law are: (1) [Connecticut](#); (2) [California](#); (3) [Massachusetts](#); (4) [Oregon](#); (5) [Vermont](#); (6) [Arizona](#); (7) [Washington](#); (8) [Rhode Island](#). The Rhode Island governor signed the state's paid sick leave law on September 28, 2017 and it is scheduled to go into effect on July 1, 2018. The Washington statewide paid sick leave law went into effect on January 1, 2018. The other six statewide laws are in effect.

than 64 hours at any one time. Employers must allow eligible employees to use at least 64 hours of available sick and safe leave in a year. For more information on the HWFA, including the Act's carryover and frontloading requirements, as well as other substantive, technical obligations, please see our [prior alert](#).

As of today, there is no cure for the HWFA's February 11 effective date. Accordingly, employers should take steps immediately to comply with the requirements of the HWFA. Here are some steps to consider:

- Review existing sick leave policies and either implement new policies or revise existing policies to satisfy the HWFA.
- Review policies on attendance, anti-retaliation, conduct, and discipline for compliance with the HWFA.
- Monitor the Maryland Department of Labor and Industry website for information on the HWFA, including a model poster, model notice, and proposed and final regulations.
- Train supervisory and managerial employees, as well as HR, on the new requirements.

We will continue to monitor and provide updates on Maryland paid sick leave developments as the February 11th effective date approaches and any changes that take place thereafter. To stay up-to-date on Paid Sick Leave developments, sign up for [Seyfarth's Paid Sick Leave mailing list](#).

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