



perspective
GAINED

PAID LEAVE LAWS – ARE YOU READY?

BILL ENCK

MAINE EARNED LEAVE ACT

- 1** FIRST IN THE COUNTRY
- 2** SIGNED ON MAY 28, 2019
- 3** EFFECTIVE JANUARY 1, 2021
- 4** REGULATIONS MUST BE ISSUED
- 5** \$1,000 PENALTY (PER OCCURRENCE) FOR FAILURE TO COMPLY
- 6** TIME TO PREPARE



MAINE EARNED LEAVE ACT

COVERED EMPLOYER

Employ more than 10 employees for more than 120 days

COVERED EMPLOYEES

Generally ALL: Exemptions for seasonal and collectively bargained



MAINE EARNED LEAVE ACT

HOW MUCH LEAVE IS “REQUIRED”?

- Accrue at least one (1) hour for every 40 hours worked
- Accrue up to 40 hours in one year of employment
- Accrual begins at start of employment
- Can require employment for 120 days before taking leave



MAINE EARNED LEAVE ACT

HOW MUCH LEAVE IS “REQUIRED”? (CONTINUED)

- Unanswered questions:
 - Can unused leave carryover from one year to the next?
 - Forfeit unused leave upon termination?
 - Can an employer “front-load” earned time?
 - Must an employee’s anniversary year be used to track?
 - Impact on existing paid time off (PTO) policies?
 - How to calculate accrual for salaried employees?



MAINE EARNED LEAVE ACT

WHAT GUIDELINES APPLY TO AN EMPLOYEE?

- May use leave for any reason
- Must give “reasonable” notice: Absent an emergency, illness or other sudden necessity
- Paid at the same base rate of pay



MAINE EARNED LEAVE ACT

WHAT GUIDELINES APPLY TO AN EMPLOYEE? (CONTINUED)

- Unanswered questions:
 - Limit number of hours that may be used at one time?
 - What is meant by “base rate of pay”?
 - What documentation must be submitted by employee?
 - Must employee follow normal procedures?
 - Discipline employee for misusing paid leave?



MASSACHUSETTS PAID FAMILY AND MEDICAL LEAVE ACT

HOW DOES THE MASSACHUSETTS LAW DIFFER FROM MAINE'S LAW?

- Contributions effective October 1, 2019
- Requires contributions by Employer and Employees
 - Up to 0.75% of compensation
 - Family Leave: Employees can pay 100% of contribution (0.13%)
 - Medical Leave (0.62%): Employees can pay 40% of the standard rate, special rule for employers with less than 25 employees
- Quarterly tax filings to transmit contributions



MASSACHUSETTS PAID FAMILY AND MEDICAL LEAVE ACT

HOW DOES THE MASSACHUSETTS LAW DIFFER FROM MAINE'S LAW? (CONTINUE)

- Covers paid family leave and paid medical leave separately
- Benefit payments begin January 1, 2021
- Duration of leave:
 - Family leave: up to 12 weeks
 - Medical leave: up to 20 weeks
 - Combined leave: up to 26 weeks



MASSACHUSETTS PAID FAMILY AND MEDICAL LEAVE ACT

HOW DOES THE MASSACHUSETTS LAW DIFFER FROM MAINE'S LAW? (CONT'D)

- Amount of Family and Medical Leave Benefits
 - 80% of salary up to 50% of state average weekly wage, plus
 - 50% of salary exceeding 50% of state average weekly wage
 - Up to maximum of \$850 per week (indexed annually)
- Private Plan exemptions



AFFORDABLE CARE ACT UPDATE

WHERE ARE WE WITH THE AFFORDABLE CARE ACT?

- Individual mandate is repealed: Will less employees go to the Marketplace?
- Individual Coverage Health Reimbursement Arrangements: Employer can pay for coverage purchased on the Marketplace
- PCORI Fee has been extended until 2029



AFFORDABLE CARE ACT UPDATE

WHERE ARE WE WITH THE AFFORDABLE CARE ACT? (CONTINUED)

- ACA Penalty Assessments continue
 - Currently issuing assessments related to 2017
 - Issuing failure to file correspondence
 - Assessing failure to timely file penalties
 - 2019 Form 1095-C deadline extended to March 2nd