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***“Comply By July!”***

**Earned Paid Sick Leave Pursuant to the Fair Wages and  
Healthy Families Act (Proposition 206)**



Arizona Petroleum Marketers Association  
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# Definition

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Earned Paid Sick Time (“PST”) - time that is compensated at the same hourly rate and with the same benefits, including health care benefits, as the employee normally earns during the hours worked, but in no event less than the minimum wage.



# When Do Employees Begin to Accrue Paid Sick Time?

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- A. Retroactively, beginning on the date they commenced employment.
- B. At the commencement of employment or July 1, 2017, whichever is later.
- C. After the new hire 90 day probation period.

# When Do Employees Begin to Accrue Paid Sick Time?

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B. At the commencement of employment or July 1, 2017, whichever is later.

(In other words, IMMEDIATELY.)



# Using PST

TRUE or FALSE?

*An employer may require an employee hired after July 1, 2017 to wait 90 calendar days after the start of employment before **using** accrued earned paid sick time.*



**TRUE**

**Accrual = Immediate**  
**Use = Delayed Okay**



# Using PST

Employees may use earned paid sick time for themselves or for family members (*see* ARS § 23-373) in the following circumstances:

- Medical care or mental or physical illness, injury, or health condition;
- A public health emergency; and
- Absence due to domestic violence, sexual violence, abuse, or stalking.

# Using PST

**Q. How does an employee request earned paid sick time?**

**A : orally, in writing, by electronic means, *or* by any other means acceptable to the employer.** When possible, the request to use earned paid sick time must include the expected duration of the absence.





# Proof

- Employer may require a doctor's note indicating that the PST is necessary for a medical purpose for PST absences of 3+ consecutive work days.
- For PST used for addressing domestic violence, assault, etc., virtually any document, including an unsworn statement from the employee, must be accepted.
- The employer may not require the employee to explain the nature of the health condition (e.g., diagnosis) or details of the domestic violence, assault, etc.

# Notice to Employer

**Must an employee give an employer advance notice of intent to use earned paid sick leave?**

When foreseeable, an employee must make a good faith effort to provide notice of the need to use earned paid sick time in advance and should schedule the leave in a manner that does not unduly disrupt the employer's operations.

**Can an employer require prior notice of the need to use earned paid sick time when the need is not foreseeable?**

Yes, provided that the employer provides a written policy that contains procedures for providing notice. If the employer does not provide an employee with a copy of the written policy, the employer cannot deny the use of earned paid sick time for the employee's failure to follow the policy.

# How Much?

## How much earned PST must an employer offer an employee?

For employers with 15 or more employees: Employees must accrue a minimum of 1 hour of earned PST for every 30 hours worked, but employees are not entitled to accrue or use more than **40** hours of earned PST per year, unless the employer selects a higher limit.

For employers with fewer than 15 employees: Employees must accrue a minimum of 1 hour of earned PST for every 30 hours worked, but they are not entitled to accrue or use more than **24** hours of earned PST per year, unless the employer sets a higher limit.

*\* PST can be used in the smallest increment the employer's payroll system uses to account for absences or use of other time.*



# Scenario 1

**If workers at Wally’s Widgets work for a short period of time in Washington state, do they accrue PST while working there, and does employer Wally have to permit use of PST while his employees are working in Washington, out of state?**

Yes. The Act says that employees are entitled to accrue and use PST even while working at a different location. Since the employees in this example are working for the same employer at a “different location,” the work in Washington should probably be treated the same as the work in Arizona. Maintain the regular PST accrual and usage policies even while employees are working out of state.

# Scenario 2

**Can Bob's Power Company offer one group of employees (e.g., management) a more generous allotment of PST than another classification of employees (e.g. staff)?**

Possibly. The language of the Act does not specifically address this issue. However, it does say that nothing in the Act should be interpreted to discourage employers from giving more generous allotments of PST at its discretion. Offering more generous other types of PTO to an identifiable classification of workers is typically permitted. *Of course, an employer cannot discriminate against protected classes in offering the benefit.*



# Required Notice to Employees

Employers must give employees written notice\* of their PST rights when employment begins or by July 1, 2017, whichever is later. The notice must be in English and Spanish (and other language deemed appropriate) and contain the following elements:

- ✓ The fact that employees are entitled to PST and the amount of PST;
- ✓ The terms of its use;
- ✓ Retaliation against employees who request or use it is prohibited;
- ✓ Employees have the right to file a complaint if properly requested PST is denied or the employee is subjected to retaliation for requesting or taking PST; and
- ✓ The contact information for the Industrial Commission of Arizona where questions about PST rights and responsibilities may be answered.

# Practical Implications

Employee paystubs (or attachments to paychecks) must include the following:

- ✓ The amount of PST available to the employee;
- ✓ The amount of PST taken by the employee year to date; and
- ✓ The amount of pay the employee has received as PST.



# Unused PST

**Q: What happens to accrued earned paid sick time if an employee is separated from employment and later rehired?**

- A. Use it or lose it.
- B. If rehire occurs at any time by the same employer, any previously-accrued earned PST that was not used must be reinstated, forever.
- C. If rehire occurs within 9 months of separation from the same employer, any previously-accrued earned PST that was not used must be reinstated.



# Unused PST

**True or False:**

*An employer is required to pay an employee for accrued but unused earned paid sick time at separation.*

**FALSE**

**Use it or lose it applies here, but employers should maintain records in case the employee comes back within 9 months.**



# Penalties

- Requires employers that fail to pay earned PST to pay the employee the balance of the PST owed, plus interest and liquidated damages equal to twice the amount owed.
- Subjects employers who fail to provide the required notices and paystub information to *civil penalties.*



# Practical Implications

- As an alternative to accruing PST, employers may provide all expected earned PST to the employee up front at the beginning of the year.





# THANK YOU

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