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CLIENT ALERT

EMPLOYMENT LAW UPDATE PROPOSED REGULATIONS CLARIFY OPEN ISSUES REGARDING EARNED SICK TIME

On April 24, 2015, the Massachusetts Attorney General issued a proposed regulations governing the application of the Earned Sick Time Law, M.G.L. c. 149, s. 148C. The law, which was approved by ballot measure in November 2014, requires employers with eleven or more employees to provide paid sick time, while smaller employers must provide unpaid sick time. The law goes into effect on July 1, 2015.

The proposed regulations address many questions left unanswered by the statute, including the following:

- While the statute requires that employees accrue 40 hours of sick leave per “*calendar year*,” the proposed regulations clarify that an employer may use any consecutive 12-month period of time (e.g., academic year), provided that the period of time is consistently and uniformly applied to all employees, and written notice is provided upon hire. This is an important clarification for schools in particular for whom calendar year recordkeeping would have posed an enormous burden.
- An employer’s obligations with respect to sick leave where its employees work in multiple states. Specifically, an employee is eligible to accrue and use earned sick time provided that his/her “primary place of work” is in Massachusetts. The regulations clarify that “primary place of work” is not necessarily where the employee spends the most amount of time. In calculating how earned sick leave is accrued, the regulations clarify that all hours the employee works, regardless of the location of the work, must be included.
- For employees entitled to earned sick time that is unpaid (those who work for employers with fewer than eleven employees), the regulations clarify that such employees may elect to use other accrued paid leave (e.g., paid time off, vacation, personal time) concurrently in order to receive pay for what would otherwise be unpaid sick time.

Before the proposed regulations become final, the Attorney General is seeking public comments, and is holding nine listening sessions and public hearings across the state from May 8 through June 5.

For additional information on the Earned Sick Time Law, please see the following K&B resources:

K&B's November 2014 Client Alert, **Mandatory Earned Sick Time is the Law of the Land in Massachusetts**, accessible at: <http://kb-law.com/articles/documents/alert-2014-11-20-MANDATORY-EARNED-SICK-TIME-IS-THE-LAW-OF-THE-LAND-IN-MASSACHUSETTS.pdf>

K&B Article published in the Boston Bar Journal, Spring 2015, entitled **Earned Sick Time: Tips for Compliance**: <http://www.kb-law.com/articles/documents/article-2015-04-22-Earned-Sick-Time-Tips-for-Compliance.pdf>

For assistance with reviewing your leave policies, or any other employment issues, please contact Attorney Paul Holtzman (pholtzman@kb-law.com) or Attorney Anjali Waikar (awaikar@kb-law.com).