



INDUSTRIAL COMMISSION OF ARIZONA

800 W WASHINGTON STREET
PHOENIX, ARIZONA 85007

(602) 542-4661

DISCLAIMER: This is an unofficial publication of the Industrial Commission of Arizona. All information provided herein is for informational purposes only and is not intended as legal advice. This information should not be used as a replacement for the Fair Wages and Healthy Families Act or the advice of qualified legal counsel.

MINIMUM WAGE AND EARNED PAID SICK TIME FAQs: UPDATED CONTENT (REV. MAY 23, 2017)

The Industrial Commission of Arizona (the "Commission") has updated its minimum wage and earned paid sick time frequently asked questions to address the Commission's proposed rulemaking and frequent questions submitted by Commission stakeholders. This document contains the new and revised content. The full FAQs can be found [here](#) and the Notice of Proposed Rulemaking can be found [here](#).

Proposition 206 – The Fair Wages and Healthy Families Act

Has the legal challenge to Proposition 206 prevented the new minimum wage and earned paid sick time laws from going into effect?

No. On December 15, 2016, a group of Arizona businesses, Chambers of Commerce, and individual citizens filed a lawsuit, challenging the constitutionality of Proposition 206, the Fair Wages and Healthy Families Act (the "Act"). On December 21, 2016, the trial court denied a motion to temporarily halt implementation of the Act pending resolution of the legal challenge. The trial court's ruling was appealed to the Arizona Supreme Court. On March 14, 2017, the Supreme Court declined to overrule the trial court's determination, stating that the Court "rejects [the] challenges to the constitutionality of Proposition 206 and denies the requested special action relief." The Supreme Court indicated that it will issue a written opinion further explaining the Courts decision. As a result, the Act remains in effect and Arizona employers are subject to its provisions, including minimum wage and earned paid sick time. The Industrial Commission will promptly update this FAQ as further information is available.

Does Proposition 206 – The Fair Wages and Healthy Families Act impose new posting and recordkeeping requirements?

Yes. Employers subject to Arizona's minimum wage laws are required to comply with notice, posting, and recordkeeping requirements pertaining to minimum wage. The requirements include: (1) posting minimum wage notices in the workplace; (2) providing employees with the employer's business name, address, and telephone number in writing upon hire; and (3) maintaining payroll records in accordance with Arizona's statutes and rules. For more information about these requirements, see [What kind of recordkeeping is required by Arizona's minimum wage laws?](#) For more information about which

employers are subject to Arizona's minimum wage laws, [see Which employers are subject to Arizona's minimum wage laws?](#)

The Industrial Commission's 2017 model minimum wage and earned paid sick time notices are available [here](#).

Employers subject to earned paid sick time laws are similarly required to comply with notice, posting, and recordkeeping requirements pertaining to earned paid sick time. The requirements include: (1) posting earned paid sick time notices in the workplace; (2) providing employees with the employer's business name, address, and telephone number in writing upon hire; (3) providing employees with a notice that informs them of their rights and responsibilities under the Fair Wages and Healthy Families Act; and (4) maintaining payroll records in accordance with Arizona's statutes and rules. For more information about which employers are subject to Arizona's earned paid sick leave laws, [see Which employers are subject to earned paid sick time laws?](#)

The Industrial Commission's 2017 model earned paid sick time notice can be found [here](#).

Proposition 206 permits the Industrial Commission to adopt rules to reduce or waive posting and recordkeeping requirements for "small employers" who would be unreasonably burdened by the statutory requirements. Current Arizona rules permit a "small employer" to request relief from recordkeeping requirements in the minimum wage context. *See* A.A.C. R20-5-1220. "Small employer" is defined as a corporation, proprietorship, partnership, joint venture, limited liability company, trust, or association that has less than \$500,000 in gross annual revenue. For further information about requesting exemption from recordkeeping requirements, [see Are any businesses exempt from recordkeeping and posting requirements?](#)

A request for relief from the recordkeeping requirements must be submitted in writing to the Labor Department of the Industrial Commission of Arizona and must contain the following:

- The reasons for the request for relief;
- An alternate manner or method of making, keeping, and preserving records that will enable the Labor Department to determine hours worked and wages paid; and
- The signature of the employer or an authorized representative of the employer.

Employers can direct requests for relief from recordkeeping requirements to:

Industrial Commission of Arizona, Labor Department
800 W Washington St.
Phoenix, AZ 85007

Note: The Industrial Commission is proposing rules that would exempt small employers (defined as a corporation, proprietorship, partnership, joint venture, limited liability company, trust, or association that has less than \$500,000 in gross annual revenue) from the Act's posting requirements. The Industrial Commission will update this FAQ as the rulemaking process progresses.

Does The Fair Wages and Healthy Families Act apply to tribal employers on tribal land?

No. The Fair Wages and Healthy Families Act (the “Act”) does not apply to tribal employers on tribal land unless a tribe voluntarily subjects itself to the Act.

Does The Fair Wages and Healthy Families Act apply to Arizona employers whose employees work on tribal land?

The Fair Wages and Healthy Families Act (the “Act”) does not address whether employees of Arizona employers who work on tribal lands are subject to the Act’s minimum wage and earned paid sick time provisions. Additional legislative and/or judicial guidance on this issue is possible. Absent additional guidance, the Industrial Commission does not intend to enforce the Act against Arizona employers for employees who work on tribal lands.

Minimum Wage

Do monetary incentives count towards minimum wage?

For minimum wage purposes, “wage” is defined as “monetary compensation due to an employee by reason of employment, including an employee’s commissions, but not tips or gratuities.” Arizona Revised Statutes (“A.R.S.”) section 23-362. Corresponding administrative rules define “monetary compensation” as “cash or its equivalent due to an employee by reason of employment.” Therefore, commissions and incentives (paid in cash, or an equivalent thereof, and by reason of employment) may count towards minimum wage. A.R.S. § 23-363(C) permits tips and gratuities to be added to an employee’s wage for the purposes of determining whether an employer paid minimum wage.

Is the Arizona minimum wage the same for both adult and minor employees?

Yes. The Fair Wages and Healthy Families Act makes no distinction made between adults and minors in Arizona’s minimum wage laws. See [Labor Department – Youth Employment](#) for information about Arizona’s youth employment laws.

What other responsibilities do employers have in the minimum wage context?

In addition to paying minimum wage, employers are required to:

- Keep accurate records of employee wages and hours (unless the employer is granted an exception to the recordkeeping requirements). Employers generally maintain these records in their ordinary business practice.
- Provide their business name, address, and telephone number in writing to employees upon hire.
- Allow inspection at the worksite of all payroll records by the Labor Department of the Industrial Commission of Arizona (hereafter, the “Labor Department”).
- Furnish copies of payroll records requested by the Labor Department.
- Cooperate with the Labor Department’s investigation into complaints of violation of Arizona minimum wage laws.
- Allow the Labor Department to interview employees.

- Post the Industrial Commission’s minimum wage notice in a conspicuous place where employees can read the notice. This notice is available as a free download [here](#). Versions are available in both English and Spanish.

Note: The Industrial Commission is currently proposing rules that would exempt small employers (defined as a corporation, proprietorship, partnership, joint venture, limited liability company, trust, or association that has less than \$500,000 in gross annual revenue) from the Act’s posting requirements. The Industrial Commission will update this FAQ as the rulemaking process progresses.

Are any businesses exempt from minimum wage recordkeeping and posting requirements?

Current Arizona rules permit a “small employer” to request relief from recordkeeping requirements in the minimum wage context. See A.A.C. R20-5-1220. A “small employer” is defined as a corporation, proprietorship, partnership, joint venture, limited liability company, trust, or association that has less than \$500,000 in gross annual revenue.

Note: There is a difference between the defined terms “small employer” and “small business.” Unlike “small business,” which applies to exempting an employer altogether from minimum wage requirements, the definition of “small employer” does not restrict the employer from engaging in interstate commerce. For more information about the definition of “small business,” see [Which employers are subject to Arizona’s minimum wage laws?](#)

A request for relief from minimum wage recordkeeping requirements must be submitted in writing to the Labor Department of the Industrial Commission of Arizona and must contain the following:

- The reasons for the request for relief;
- An alternate manner or method of making, keeping, and preserving records that will enable the Labor Department to determine hours worked and wages paid; and
- The signature of the employer or an authorized representative of the employer.

Employers can direct requests for relief from recordkeeping requirements to:

Industrial Commission of Arizona, Labor Department
800 W Washington St.
Phoenix, AZ 85007

Note: The Industrial Commission is currently proposing rules that would exempt small employers (defined as a corporation, proprietorship, partnership, joint venture, limited liability company, trust, or association that has less than \$500,000 in gross annual revenue) from the Act’s posting requirements. The Industrial Commission will update this FAQ as the rulemaking process progresses.

For tipped employees, what if actual tips received are not sufficient to make up the difference between the employer’s direct wage obligation and minimum wage?

If a tipped employee does not earn the required minimum wage after including tips, the employer is required to pay the difference. Employers must always pay tipped employees a base wage of no less than three dollars below minimum wage.

Minimum Wage

What can earned paid sick time be used for?

Employees may use earned paid sick time for themselves or for family members (*see Arizona Revised Statutes § 23-373* to see who qualifies as a family member) 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.

See *Arizona Revised Statutes § 23-373* for further detail concerning authorized uses for earned paid sick time and definitions of family members.

What is a public health emergency within the meaning of the Act?

Absent statutory or judicial guidance, the Industrial Commission is proposing a rule that would define a “public health emergency” as a state of emergency declared by the governor in which there is an occurrence or imminent threat of an illness or health condition caused by bioterrorism, an epidemic or pandemic disease or a highly fatal infectious agent or biological toxin and that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability. The Industrial Commission will update this FAQ as the rulemaking process progresses.

Does the Act exempt any professions or salary ranges from its earned paid sick time provisions?

No. The Fair Wages and Healthy Families Act does not exempt any professions or ranges of salary from the earned paid sick time provisions.

If an Arizona employer’s employees work outside of Arizona, are those employees entitled to earned paid sick time?

Because the Fair Wages and Healthy Families Act does not address this issue, additional legislative and/or judicial guidance is possible. Absent additional guidance, the Industrial Commission does not intend to enforce the Act against employers whose employees work outside of Arizona.

How much earned paid sick time must an employer offer an employee?

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

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

See *Is an employer with employees outside of Arizona required to include those employees when calculating its total employees for earned paid sick time purposes?*

What is a “year,” for earned paid sick time purposes?

Under the Act, a “year” is defined as a regular and consecutive 12-month period as determined by the employer. An employer may, therefore, designate its “year” as it sees fit (*e.g.*, calendar year, fiscal year, year from an employee hire date, etc.).

If an employer’s selected “year” ends less than 365 days after The Fair Wages and Healthy Families Act’s earned paid sick time effective date (July 1, 2017), can that employer prorate its employees’ annual earned paid sick time accrual and usage caps based on the number of days remaining in the employer’s “year?”

In the absence of statutory and judicial guidance on the issue, the Industrial Commission will permit an employer whose selected “year” ends less than 365 days after The Fair Wages and Healthy Families Act’s (the “Act”) earned paid sick time effective date (July 1, 2017) to prorate employees’ annual earned paid sick time accrual and usage caps based on the number of days remaining in the employer’s “year.” Prorated accrual and usage caps should be rounded up to the nearest hourly increment or the smallest increment that the employer’s payroll system uses to account for absences or use of other time, whichever is smaller. An employee’s accrual rate, however, may not be prorated. See [What is a “year,” for earned paid sick time purposes?](#)

Example 1: Employer A’s selected “year” runs from January 1 through December 31. The employer will have 184 days remaining between the Act’s earned paid sick time effective date (July 1, 2017) and the end of the employer’s selected “year.” Employer A may prorate the amount of earned paid sick time that its employees are entitled to accrue and use during the partial year at a rate of .504 ($184/365 = .504$). Assuming that Employer A has 15 or more employees and the smallest increment that the employer’s payroll system uses is one-tenth of an hour, employees of Employer A would be entitled to accrue and use at least 20.2 hours of earned paid sick time ($.504 \times 40$ hours, rounded up to nearest tenth of an hour) in the 184 days following July 1, 2017 (the remainder of the employer’s “year”).

Example 2: Employer B’s selected “year” runs from June 1 through May 31. The employer will have 335 days remaining between the Act’s earned paid sick time effective date (July 1, 2017) and the end of the employer’s selected “year.” Employer B may prorate the amount of earned paid sick time that its employees are entitled to accrue and use during the partial year at a rate of .918 ($335/365 = .918$). Assuming that Employer B has fewer than 15 employees and the smallest increment that the employer’s payroll system uses is half of an hour, employees of Employer B would be entitled to accrue and use at least 22.5 hours of earned paid sick time ($.918 \times 24$ hours, rounded up to the nearest half of an hour) in the 335 days following July 1, 2017 (the remainder of the employer’s “year”).

Is an employer with employees outside of Arizona required to include those employees when calculating its total employees for earned paid sick time purposes?

The Fair Wages and Healthy Families Act’s minimum wage and earned paid sick time provisions apply only to Arizona employees. Therefore, in the absence of further statutory or judicial guidance on the issue, the Industrial Commission will not include an employer’s non-Arizona employees in an employer’s total employee count for earned paid sick time purposes.

Example: Employer A has ten California employees, three Colorado employees, and four Arizona employees. Though Employer A has 17 employees across three states, it has just four employees for

earned paid sick time purposes. Because Employer A has fewer than 15 employees in Arizona, its four Arizona employees are entitled to accrue and use at least 24 hours of earned paid sick time per year (whereas an employee of an employer with 15 or more employees in Arizona would be entitled to accrue and use at least 40 hours of earned paid sick time per year). See [How much earned paid sick time must an employer offer an employee?](#)

Are earned paid sick time accrual and usage caps prorated for partial-year employees? In other words, is an employee who works part of a year entitled to accrue and use the same amount of leave available to a year-round employee?

The Fair Wages and Healthy Families Act does not draw a distinction between year-round and partial-year employees. An employee's accrual and usage caps are based solely on the size of the employer and are not based upon whether an employee works a full or partial year. See [How much earned paid sick time must an employer offer an employee?](#) for more information.

How does an employer determine hourly wage rate for earned paid sick time purposes?

In the absence of statutory and judicial guidance, the Industrial Commission is proposing rules consistent with the following methods for determining hourly wage rate:

- **For employees with a single hourly rate.** For employees paid on the basis of a single hourly rate, an employer is required to pay the employee the same hourly rate that the employee would have earned for the period of time in which sick time is used. For example, if an employee's hourly rate is \$15 per hour, the employer is required to pay the employee \$15 for each hour of earned paid sick time.
- **For employees with multiple hourly rates.** If known, an employer is required to pay a multi-rate employee the actual hourly wages that the employee would have been paid for the period of time in which sick time is used. If unknown, an employer must pay an hourly rate equivalent to the weighted average of all hourly rates of pay during the previous pay period.
- **For salaried employees.** Employers must pay a salaried employee an hourly rate equal to the employee's total wages earned during the pay period covered by the salary divided by the number of hours agreed to be worked in the pay period for which the salary is intended to compensate. If a salaried employee's hours of work vary from work week to work week, for the purpose of calculating the same hourly rate to be used for the payment of earned paid sick time, the employee is presumed to work 40 hours per workweek.
- **For commissioned, piece-rate, or fee-for-service employees.** Such employees' hourly rates are determined in the following order of priority:
 1. The hourly rate of pay agreed upon by the employer and the employee, if an hourly rate of pay was previously established.
 2. The wages that the employee would have been paid, if known, for the period of time in which earned paid sick time is used.
 3. A reasonable estimation of the wages that the employee would have been paid for the period of time in which the earned paid sick time is used.
 4. The weighted average of all hourly rates of pay during the previous 90 days, if the employee worked regularly during the previous 90-day period.

NOTE: Shift differentials and premiums meant to compensate an employee for work performed under differing conditions (such as hazard pay or a shift differential for working at night) shall be included when computing an employee's hourly rate. Additionally, overtime, holiday pay, bonuses, other types of incentive pay, tips, and gifts do not need to be included in an hourly wage rate determination. Pursuant to the Act, in no case may an employer pay less than minimum wage per hour of earned paid sick time.

Must an employer include shift differentials and hazard pay in calculating an employee's hourly rate for earned paid sick time purposes?

In the absence of statutory and judicial guidance, the Industrial Commission is proposing rules consistent with the following:

Shift differentials and premiums meant to compensate an employee for work performed under differing conditions (such as hazard pay or a shift differential for working at night) should be included when computing an employee's hourly rate. On the other hand, overtime, holiday pay, bonuses, other types of incentive pay, tips, and gifts do not need to be included in an hourly rate determination.

Must an employer include bonuses, overtime, and holiday pay in calculating an employee's hourly rate for earned paid sick time purposes ?

In the absence of statutory and judicial guidance, the Industrial Commission is proposing rules consistent with the following:

Overtime, holiday pay, bonuses, other types of incentive pay, tips, and gifts do not need to be included in an hourly rate determination. On the other hand, shift differentials and premiums meant to compensate an employee for work performed under differing conditions (such as hazard pay or a shift differential for working at night) should be included when computing an employee's hourly rate.

Can an employer designate leave time as earned paid sick time when an employee has not requested to use earned paid sick time?

Because The Fair Wages and Healthy Families Act does not address this issue, additional legislative and/or judicial guidance is possible. Absent additional guidance, the Industrial Commission will not pursue enforcement when an employer designates an employee's time off from work as earned paid sick time, provided that the employer has a good faith belief that the absence meets the requirements of earned paid sick time usage. If an employer who has in good faith designated leave time as earned paid sick time learns that it did so in error, it should take prompt action to correct the error.

Must an employer carry forward balances of earned paid sick time at the end of a year to the next year?

The Fair Wages and Healthy Families Act provides that earned paid sick time shall be carried over to the following year, subject to usage limitations based on employer size. Alternatively, in lieu of carry over, an employer may pay an employee for unused earned paid sick time pursuant to A.R.S. § 23-372(D)(4). Absent statutory or judicial guidance, the Industrial Commission is proposing rules consistent with the following:

An employee of an employer with 15 or more employees may carry over to the following year a maximum of 40 hours of unused earned paid sick time. An employee of an employer with fewer than 15 employees may carry over to the following year a maximum of 24 hours of unused earned paid sick time. Alternatively, in lieu of carry over, an employer may pay an employee for unused earned paid sick time pursuant to A.R.S. § 23-372(D)(4). Carry over shall not affect accrual or use rights under the Act. See May an employer offer more generous earned paid sick time policies than those required by the Act?

Example 1. Employer with 15 or more employees. Employee A accrues 40 hours of earned paid sick time in Year 1 and does not use any of the accrued time. The proposed rule would allow Employee A to carry forward the 40 hours of accrued but unused earned paid sick time to Year 2 (unless the employer exercises its buy back option pursuant to A.R.S. § 23-372(D)(4)). Assuming the employer did not buy back hours pursuant to A.R.S. § 23-372(D)(4), Employee A remains entitled to accrue another 40 hours of earned paid sick time in Year 2 (for a maximum of 80 hours). If, at the end of Year 2, Employee A has 80 hours of unused earned paid sick time and the employer does not exercise its buyback option pursuant to A.R.S. § 23-372(D)(4), Employee A may only carry forward 40 hours of earned paid sick time into Year 3 (though they may accrue another 40 hours in the course of Year 3). NOTE: Employee A may only use 40 hours of earned paid sick time in any given year.

Example 2. Employer with fewer than 15 employees. Employee B accrues 24 hours of earned paid sick time in Year 1 and does not use any of the accrued time. The proposed rule would allow Employee A to carry forward the 24 hours of accrued but unused earned paid sick time to Year 2 (unless the employer exercises its buy back option pursuant to A.R.S. § 23-372(D)(4)). Assuming the employer did not buy back hours pursuant to A.R.S. § 23-372(D)(4), Employee B remains entitled to accrue another 24 hours of earned paid sick time in Year 2 (for a maximum of 48 hours). If, at the end of Year 2, Employee B has 48 hours of unused earned paid sick time and the employer does not exercise its buyback option pursuant to A.R.S. § 23-372(D)(4), Employee B may only carry forward 24 hours of earned paid sick time into Year 3 (though they may accrue another 24 hours in the course of Year 3). NOTE: Employee B may only use 24 hours of earned paid sick time in any given year.

If an employee carries into a subsequent year the maximum amount of earned paid sick time that the employee can use in the subsequent year, will the employee still accrue additional earned paid sick time?

Because The Fair Wages and Healthy Families Act (the "Act") does not address this issue, additional legislative and/or judicial guidance is possible. In the absence of additional guidance, the Industrial Commission is proposing rules that provide that carry over shall not affect accrual or use rights under the Act. This means that, regardless of the amount of earned paid sick time carried over to a subsequent year, an employee retains the right to accrue additional earned paid sick time in the subsequent year. Accrued earned paid sick time, however, remains subject to yearly usage limits. See May an employer offer more generous earned paid sick time policies than those required by the Act?

Example 1. Employer with 15 or more employees. Employee A accrues 40 hours of earned paid sick time in Year 1 and does not use any of the accrued time. The proposed rule would allow Employee A to carry forward the 40 hours of accrued but unused earned paid sick time to Year 2 (unless the employer exercises its buy back option pursuant to A.R.S. § 23-372(D)(4)). Assuming the employer did not buy

back hours pursuant to A.R.S. § 23-372(D)(4), Employee A remains entitled to accrue another 40 hours of earned paid sick time in Year 2 (for a maximum of 80 hours). If, at the end of Year 2, Employee A has 80 hours of unused earned paid sick time and the employer does not exercise its buyback option pursuant to A.R.S. § 23-372(D)(4), Employee A may only carry forward 40 hours of earned paid sick time into Year 3 (though they may accrue another 40 hours in the course of Year 3). NOTE: Employee A may only use 40 hours of earned paid sick time in any given year.

Example 2. Employer with fewer than 15 employees. Employee B accrues 24 hours of earned paid sick time in Year 1 and does not use any of the accrued time. The proposed rule would allow Employee A to carry forward the 24 hours of accrued but unused earned paid sick time to Year 2 (unless the employer exercises its buy back option pursuant to A.R.S. § 23-372(D)(4)). Assuming the employer did not buy back hours pursuant to A.R.S. § 23-372(D)(4), Employee B remains entitled to accrue another 24 hours of earned paid sick time in Year 2 (for a maximum of 48 hours). If, at the end of Year 2, Employee B has 48 hours of unused earned paid sick time and the employer does not exercise its buyback option pursuant to A.R.S. § 23-372(D)(4), Employee B may only carry forward 24 hours of earned paid sick time into Year 3 (though they may accrue another 24 hours in the course of Year 3). NOTE: Employee B may only use 24 hours of earned paid sick time in any given year.

What happens to accrued earned paid sick time when one employer takes the place of an existing employer?

All employees of the original employer still employed by the successor employer are entitled to previously-accrued earned paid sick time and are entitled to use that earned paid sick time. The Industrial Commission will follow existing Arizona case law concerning liability assumption in asset-only transactions.

May an employer offer more generous earned paid sick time policies than those required by the Act?

Yes. Pursuant to Arizona Revised Statutes § 23-378, nothing in Arizona's earned paid sick time provisions should be construed to discourage or prohibit an employer from adopting or retaining an earned paid sick time policy that is more generous than that required by the Fair Wages and Healthy Families Act (the "Act"). Additionally, the provisions of the Act do not diminish an employer's obligation to comply with any contract, collective bargaining agreement, employment benefit plan, or other agreement that provides more generous paid sick time to an employee than that required by the Act.

If an employer already has a paid-time-off policy, does it have to offer additional earned paid sick time?

If an employer has a paid leave policy that provides an amount of paid leave that meets or exceeds Arizona's earned paid sick time minimum requirements (and can be used for the same purposes and under the same conditions as the statutorily-required earned paid sick time), the employer is not required to provide additional earned paid sick time. See also [May an employer offer more generous earned paid sick time policies than those required by the Act?](#)

When an employer's paid leave policy either meets or exceeds the Fair Wages and Healthy Families Act's requirements, and an employee uses accrued leave for reasons unrelated to

earned paid sick time (such as vacation), is the employer required to provide the employee additional leave for earned paid sick time purposes?

No. The Fair Wages and Healthy Families Act (the “Act”) provides that “an employer with a paid leave policy . . . who makes available an amount of paid leave sufficient to meet the accrual requirements of this section that may be used for the same purposes and under the same conditions as earned paid sick time under this article is not required to provide additional paid sick time.” Arizona Revised Statutes section 23-372(E). Therefore, provided that an employer’s equivalent paid leave policy provides paid leave that may be used for the same purposes and under the same conditions enumerated in the Act, it need not offer additional leave when an employee utilizes the available time for purposes other than those enumerated in the Act. See also May an employer offer more generous earned paid sick time policies than those required by the Act?

The Fair Wages and Healthy Families Act gives different options for requesting earned paid sick time (orally, in writing, by electronic means, or by any other means acceptable to the employer). Can an employer decide which of these options an employee must use to make a leave request?

No. The Fair Wages and Healthy Families Act permits an employee to use any available option (orally, in writing, by electronic means, or by any other means acceptable to the employer) when requesting earned paid sick time. An employer is not permitted to interfere with an employee’s right to use any of the available options.

What kind of posting and recordkeeping is required by Arizona’s earned paid sick time laws?

Unless otherwise exempted from the posting and recordkeeping requirements, employers subject to Arizona’s earned paid sick time laws are required to comply with notice, posting, and recordkeeping requirements pertaining to earned paid sick time. The requirements include: (1) posting earned paid sick time notices in the workplace; (2) providing employees with the employer’s business name, address, and telephone number in writing upon hire; (3) providing employees with a notice that informs them of their rights and responsibilities under the Fair Wages and Healthy Families Act; and (4) maintaining payroll records in accordance with Arizona’s statutes and rules. For more information about which employers are subject to Arizona’s earned paid sick leave laws, see Which employers are subject to earned paid sick time laws?

The Industrial Commission’s 2017 model earned paid sick time notice can be found here.

Note: The Industrial Commission is currently proposing rules that would exempt small employers (defined as a corporation, proprietorship, partnership, joint venture, limited liability company, trust, or association that has less than \$500,000 in gross annual revenue) from the Act’s posting requirements. The Industrial Commission will update this FAQ as the rulemaking process progresses.

Violations of Proposition 206 - The Fair Wages and Healthy Families Act

What recourse does an employee have against an employer that is not paying minimum wage or earned paid sick time?

Employees who believe that their employer is violating the Fair Wages and Healthy Families Act may file a complaint with the Labor Department of the Industrial Commission of Arizona or file a civil lawsuit. To file a complaint with the Labor Department online, please click [here](#). To file a claim in writing, send the completed claim form (available [here](#)) to:

Industrial Commission of Arizona, Labor Department
800 W Washington St.
Phoenix, AZ 85007

Who can file an administrative complaint?

Any person or organization may file a complaint with the Labor Department of the Industrial Commission alleging a minimum wage or earned paid sick time violation.

When must an administrative complaint be filed?

An administrative complaint concerning minimum wage must be filed within one year of the date that the wages were due. In the absence of statutory and judicial guidance, the Industrial Commission is proposing rules that would also require administrative complaints concerning unpaid earned paid sick time to be filed within one year of that the date that the earned paid sick time payment was due.

As concerns claims for minimum wage retaliation, an administrative complaint must be filed with the Labor Department of the Industrial Commission within one year from the date the alleged violation occurred or when the employee knew or should have known of the alleged violation. In the absence of statutory or judicial guidance, the Industrial Commission is proposing rules that would permit a person or organization alleging minimum wage or earned paid sick time retaliation, discrimination, or a violation of A.R.S. § 23-377 to file a complaint with the Labor Department within one year from the date the alleged violation occurred or when the employee knew or should have known of the alleged violation.