



MA Act H4640 Minimum Wage Increase and Paid Family and Medical Leave

The following is an outline of key items regarding the MA minimum wage, Sunday and holiday premium pay for retail workers, and paid Family and Medical Leave under Act H4640 signed by Governor Baker into law on June 28th.

Minimum Wage Increase

<i>New Minimum Hourly Wage</i>	<i>Hourly Wage For Tipped Employees</i>	<i>Beginning Date</i>
\$12.00	\$4.35	January 1, 2019
\$12.75	\$4.95	January 1, 2020
\$13.50	\$5.55	January 1, 2021
\$14.25	\$6.15	January 1, 2022
\$15.00	\$6.75	January 1, 2023

The law also phases in the elimination of Sunday and holiday premium pay for retail workers.

Paid Family and Medical Leave

Beginning October 1, 2021, covered individuals will be eligible for up to 12 weeks of paid family leave, as follows:

- To bond with the covered individual's child during the first 12 months after the child's birth or the first 12 months after the placement of the child for adoption or foster care;
- To care for a family member with a serious health condition (family member defined as spouse, domestic partner, child, parent or parent of a spouse or domestic partner, or individual who served as loco parentis when covered individual was a child, or a grandchild, grandparent or sibling of the covered individual) ;
- For any qualifying exigency arising out of the fact that a family member is on active duty or has been notified of an impending call or order to active duty in the Armed Forces, or up to 26 weeks in total to care for a family member who is a covered servicemember;

Paid medical leave will be available to any covered individual with a serious health condition of up to 20 weeks. A serious health condition is defined as an illness, injury, impairment or physical or mental condition that involves (i) inpatient care in a hospital, hospice or residential medical facility, or (ii) continuing treatment by a healthcare provider.

A covered individual is defined as:

- An employee who meets the financial eligibility requirements (must have earned at least \$4,700 during the last 4 completed calendar quarters and 30 times the weekly benefit amount they would be eligible to collect);
- A self-employed individual who has elected coverage and reported earnings to the Department of Revenue from self-employment (which meets the financial eligibility requirements outlined above);
- A former employee who has met the financial eligibility requirements at the time of the former employee's separation from employment (provided all such employment has been with a MA employer), and who has been separated from employment for not more than 26 weeks at the start of the former employee's family or medical leave.



HR Advisory Services
MA Minimum Wage and Paid Family and Medical Leave
Enacted June 28, 2018

The paid leave program will be financed by employee and employer contributions to the Family and Employment Security Trust Fund established by the Act. The required contributions will begin July 1, 2019 and will have an initial rate of 0.63 percent of the employee's weekly earnings, with the employer and employee splitting the cost of the contribution (a recent Boston Globe article estimated this to be \$4.50 per week in total). Employers with less than 25 employees will not be required to contribute the employer contribution.

Of note:

- Employers must provide a job security guarantee (return to previous job or an "equivalent" position with the same pay, status and benefits). Any change in seniority, status, employment benefits, pay or other terms or conditions of employment which occurs anytime during the leave or during the 6 month period following an employee's return to work will be considered retaliation (unless clear and compelling evidence is demonstrated by the employer for taking such action).
- Employees will not be eligible for more than 26 combined weeks of paid family and medical leave in a single year (determined as 52 consecutive weeks beginning on the Sunday immediately preceding the first day that job protected leave began for the covered individual).
- Leave taken will run concurrently with the federal FMLA if the employer has 50 or more employees.
- Employers cannot require an employee to take paid leave prior to or while taking leave.
- The Act specifically states "the taking of leave shall not affect an employee's right to accrue vacation time, sick leave, bonuses, advancement, seniority, length of service credit or other employment benefits, plans, or programs."
- Intermittent leave is not permitted for Family Leave (unless agreed upon with the employer), but is permitted for Medical Leave for the covered individual.

Employers will be required to issue a notice to each employee not more than 30 days from date of hire containing key information of employee rights and benefits under the law. Written acknowledgement of receipt by the employee is required.

Paid Leave Benefit Determination and Waiting Period

- A covered individual will receive 80% of their average weekly earnings up to 50% of the MA average weekly wage (currently determined as \$850/week), plus 50% of their pay exceeding 50% of the average weekly wage.
- The maximum benefit will not be more than \$850 per week (this may be adjusted on an annual basis).
- There will be a 7 calendar day waiting period for paid leave benefits (an employee may voluntarily use paid leave to cover this period).

Administration

Eligible employees will file a claim directly with the Department of Family and Medical Leave, to be created within the Executive Office of Labor and Workforce Development. In turn, the Act requires the Department to send a notification to the employer within 5 days of receipt of the claim, with a request for wage/earning and employment verification. Employers must respond within 10 days of this request.

Employers may apply to the Department of Family and Medical Leave for approval to meet their obligations through a private plan. Such a plan must conform to all mandates of the Act regarding the amount of leave, maximum weekly benefit, and other provisions.

Final regulations will be issued prior to July 1, 2019 by the Department of Family and Medical Leave.