

# Complying with Maine's New Paid Leave Law

EMPLOYMENT LAW PRACTICE GROUP

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Fittingly, "Vacation Land" is among a small contingent of states that have a paid leave law on the books. Maine, however, is somewhat unique in that the paid leave afforded under the new law can be used *for any purpose*, including emergency, illness, birth of a child, sudden necessity, planned vacation, etc. The law has been on the books since 2019 and goes into effect on January 1, 2021. The law applies across industries (except seasonal industries) to all employers in the state with more than 10 employees for more than 120 days in any calendar year. Further, the law applies to all employees, whether full-time, part-time, temporary, or per diem.

With many Maine employers already offer a paid leave benefits to employees, it will be necessary to audit existing policies and practices to make sure that they are in line with the new requirements. Other employers that currently do not offer any type of paid leave will need to develop a brand-new policy or protocol to ensure compliance.

This high-level overview is designed to serve as a helpful checklist so that Maine employers can ensure that they have policies and procedures in place to comply with the new paid leave law:

## ACCRUAL

Under the new law, employees can accrue one hour of "Earned Paid Leave" for every forty hours worked, up to forty hours in a defined year. This is a minimum requirement and employees can bargain for, or employers can offer, a more generous benefit. Employees are entitled to start using this leave once they have been employed for 120 days, but employers can allow employees to access paid leave sooner, if desired. Employers can also choose to front load Earned Paid Leave so that it is available to employees at the beginning of the year.

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**✓ NOTICE**

Employers can require employees to give up to four weeks of advance notice to use Earned Paid Leave for any reason other than an emergency, illness, or sudden necessity. Employers can also place reasonable limits on scheduling of leave to prevent undue hardship. It is helpful to evaluate operational needs and outline when there may be restrictions on an employee's ability to take Earned Paid Leave. IN the case of emergency, illness, or sudden necessity, employees must provide notice as soon as practicable under the circumstances. Employers must be able to prove undue hardship (significant operational impact or expense) if requested Earned Paid Leave is denied.

**✓ TIME INCREMENTS**

Employers may require use of Earned Paid Leave in at least one-hour increments or choose to allow employees to use leave in smaller time increments.

**✓ ROLL OVER**

Employees can carry over up to forty hours of Earned Paid Leave from one year to the next, but the maximum amount of Earned Paid Leave available in any year under the statute does not exceed forty hours.

**✓ SEPARATION**

Employers that allow frontloading of Earned Paid Leave can withhold from the last paycheck any amount of leave that was used but that had not yet accrued. Employers are not required to pay out the unused balance of Earned Paid Leave when an employee separates unless that practice exists related to another existing policy (i.e., vacation time). If Earned Paid Leave is not paid out at separation and the employee returns to work within the same year, the employee must be allowed to use any accrued but unused Earned Paid Leave.

**✓ POSTERS**

Download and post the most current Bureau of Labor Standard's "Regulation of Employment" poster.

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✓ **COLLECTIVE  
BARGAINING**

The law does not apply to employees covered by a Collective Bargaining Agreement during the period between 1/1/2021 and when the agreement expires.

*There are additional nuances that may apply to your business or workforce. Consult Maine Department of Labor regulations and guidance for more information.*

## ABOUT THE AUTHOR



Laura Rideout is a member of Preti Flaherty's Employment Law and Litigation practice groups. Recognized as a "Rising Star" in her field of practice, Laura implements a thoughtful yet aggressive approach to her work, helping clients find unique ways to resolve legal issues to best fit their needs. Learn more about Laura's practice [here](#).