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NOTE: The Industrial Commission of Arizona has received a large volume of inquiries concerning Proposition 206, the Fair Wages and Healthy Families Act (the “Act”). In the interest of providing a prompt response to the inquiries, the Industrial Commission provides the following answers to frequently asked questions. Because the Act modifies Arizona’s existing minimum wage laws and creates earned paid sick time requirements, these answers may be inconsistent with other information found on the website. To the extent that there are such inconsistencies, this information controls.

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.

FREQUENTLY ASKED QUESTIONS (FAQS) ABOUT MINIMUM WAGE AND EARNED PAID SICK TIME (REV. NOVEMBER 22, 2017)

Proposition 206, the Fair Wages and Healthy Families Act (the “Act”), gives the Industrial Commission of Arizona authority to enforce and implement the Act’s minimum wage and earned paid sick time requirements. The following information is derived from the language of the Act and current administrative rules found in Title 20, Chapter 5, Article 12 of the Arizona Administrative Code.

NOTE: Where appropriate, the phrase “earned paid sick time” in these FAQs means both earned paid sick time and “equivalent paid time off.” See [What is equivalent paid time off?](#)

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Proposition 206 – The Fair Wages and Healthy Families Act

What is Proposition 206 – The Fair Wages and Healthy Families Act?

Proposition 206, the Fair Wages and Healthy Families Act (the “Act”), was a ballot initiative on the November 8, 2016 Arizona ballot and was approved by the voters. The Act establishes a [new state minimum wage](#) effective January 1, 2017, and entitles employees to accrue [earned paid sick time](#) beginning July 1, 2017. For more information about minimum wage requirements, click [here](#). For more information about earned paid sick time requirements, click [here](#). To view the entire text of Proposition 206, click [here](#). For the text of the Industrial Commission’s Notice of Supplemental Proposed Rulemaking, click [here](#).

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.

What employers are affected by Proposition 206 – The Fair Wages and Healthy Families Act?

Proposition 206, the Fair Wages and Healthy Families Act (the “Act”), applies to all “employers.”

In the minimum wage context, Arizona law broadly defines “employer” as any corporation, proprietorship, partnership, joint venture, limited liability company, trust, association, political subdivision of the state, individual or other entity acting directly or indirectly in the interest of an employer in relation to an employee, but does not include the state of Arizona, the United States, or a small business. Of note, “small businesses” are excluded from the definition and are exempt from the minimum wage requirements. For further information about the small business exemption, see [Which employers are subject to the Arizona’s minimum wage laws?](#)

Notably, the Act does not change the definition of “employer” for purposes of minimum wage. Therefore, in general, if an employer was subject to Arizona’s minimum wage laws prior to approval of Proposition 206, the employer will be subject to the Act’s new minimum wage requirements.

In the earned paid sick time context, “employer” is defined similarly, but does not exempt “small businesses.” Under the Act, an “employer” for purposes of earned paid sick time is any corporation, proprietorship, partnership, joint venture, limited liability company, trust, association, political subdivision of the state, individual or other entity acting directly or indirectly in the interest of an employer in relation to an employee, but does not include the state of Arizona or the United States. For further information, see [Which employers are subject to earned paid sick time laws?](#) Therefore, even

“small businesses” that are exempt from the minimum wage requirements are subject to the Act’s earned paid sick time requirements.

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 time 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 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.

How does Flagstaff’s minimum wage ordinance change the requirements of Proposition 206?

Proposition 206, the Fair Wages and Healthy Families Act (the “Act”), enables counties, cities, and towns to regulate minimum wages and benefits within its geographic boundaries, provided that the county, city, or town does not permit a lower minimum wage than required by the Act. Flagstaff’s Proposition 414, passed in 2016, created an ordinance that requires employers to pay employees a minimum wage higher than the State’s minimum wage. The Flagstaff ordinance defines “employee” as any individual who works or is expected to work 25 hours or more in any given calendar year within the geographic boundaries of the City of Flagstaff.

The Industrial Commission does not enforce Flagstaff city ordinances. You can find the full text of Flagstaff’s city ordinances [here](#).

Minimum Wage

What is Arizona’s minimum wage?

Until January 1, 2017, Arizona’s minimum wage will remain \$8.05 per hour. Beginning January 1, 2017, the Arizona minimum wage will be increased to \$10.00 per hour. The Industrial Commission’s 2017 model minimum wage notice is available [here](#).

Under Proposition 206, the Fair Wages and Healthy Families Act (the “Act”), Arizona minimum wage will increase to \$10.50 per hour in 2018; \$11.00 per hour in 2019; and \$12.00 per hour in 2020. On January 1, 2021, the Arizona minimum wage will increase each year by the cost of living.

Employers required to comply with the Act's minimum wage requirements will be required to pay each employee wages not less than the applicable minimum wage for each hour worked. For more information about which employers are subject to Arizona's minimum wage laws, see [Which employers are subject to the Arizona's minimum wage laws?](#) Arizona does not allow a sub-minimum wage for different classes of employees (*e.g.*, young workers, students, etc.). Minimum wage must be paid for all hours worked, regardless of the frequency of payment and regardless of whether the wage is paid on an hourly, salaried, commissioned, piece rate, or any other basis.

Note: Employers will still be permitted to pay employees receiving tips up to \$3.00 per hour less than the minimum wage, provided that the employees earn at least minimum wage for all hours worked each week (when tips are included). For further information regarding payment of minimum wages to tipped employees, see [What is the Arizona minimum wage for tipped employees?](#)

How does Proposition 206 – The Fair Wages and Healthy Families Act affect minimum wage?

Beginning January 1, 2017, the Arizona minimum wage will increase from \$8.05 per hour to \$10.00 per hour. The Industrial Commission's 2017 model minimum wage notice is available [here](#).

Under Proposition 206, the Fair Wages and Healthy Families Act, Arizona minimum wage will increase to \$10.50 per hour in 2018; \$11.00 per hour in 2019; and \$12.00 per hour in 2020. On January 1, 2021, the Arizona minimum wage will increase each year by the cost of living.

Note: Employers will still be permitted to pay employees receiving tips up to \$3.00 per hour less than the minimum wage, provided that the employees earn at least minimum wage for all hours worked each week (when tips are included). For further information regarding payment of minimum wages to tipped employees, see [What is the Arizona minimum wage for tipped employees?](#)

Which employers are subject to Arizona's minimum wage laws?

Arizona's minimum wage laws apply to all "employers." Arizona law defines an "employer" in the minimum wage context as any corporation, proprietorship, partnership, joint venture, limited liability company, trust, association, political subdivision of the state, individual or other entity acting directly or indirectly in the interest of an employer in relation to an employee, but does not include the state of Arizona, the United States, or a small business. The definition of "employer" in the minimum wage context was not changed by Proposition 206, the Fair Wages and Healthy Families Act.

"Small businesses," as the term is defined by Arizona law, are excluded from the definition of employer and are exempt from the minimum wage requirements. Arizona law defines a "small business as any corporation, proprietorship, partnership, joint venture, limited liability company, trust, or association that has less than five hundred thousand dollars in gross annual revenue and that is exempt from having to pay a minimum wage under section 206(a) of title 29 of the United States Code." Section 206(a) of title 29 of the United States Code is a subsection of the federal Fair Labor Standards Act (FLSA) that requires employers whose employees or enterprises are engaged in "commerce" to pay their employees a minimum wage.

Under the FLSA, "commerce" is a broad term that refers to any form of commercial interstate interaction. "Commerce" includes (but is not limited to) taking payments from out-of-state customers;

processing payments that come from out-of-state banks or credit card issuers; using a telephone, fax machine, U.S. Mail, or email to communicate with someone in another state; driving or flying to another state for job duties; and loading, unloading, or using goods that come from an out-of-state supplier (assuming that the goods were purchased from the out-of-state supplier).

Due to these restrictive requirements, few businesses in today's economy would qualify as exempt from having to pay minimum wage under either the FLSA or Arizona minimum wage statutes. Examples of small businesses that the ICA Labor Department has determined may meet the exemption are barbers and janitors who buy all of their supplies locally and accept only cash or checks from Arizona banks.

Are any employers or employees exempted from Arizona's minimum wage laws?

Unlike the federal Fair Labor Standards Act (which governs the payment of minimum wage on a federal level), Arizona's minimum wage laws have very few exemptions. The following are exempt from Arizona's minimum wage requirements:

- A person who is employed by a parent or a sibling.
- A person who is employed performing babysitting services in the employer's home on a casual basis.
- A person employed by the State of Arizona or the United States government.
- A "small business" grossing less than \$500,000 in annual revenue, if that small business is not required to pay minimum wage to any of its employees under the federal Fair Labor Standards Act. NOTE: This exclusion for small businesses under Arizona minimum wage law is very limited. Given current economic realities, most Arizona businesses who gross less than \$500,000 will still be subject to the Arizona minimum wage laws. For additional discussion of the "small business" exemption, see [the preceding question](#).

Does the Arizona minimum wage apply to part-time or temporary employees?

Yes. The Arizona minimum wage laws make no distinction between full-time, part-time, or temporary employees.

Does the Arizona minimum wage apply to independent contractors?

Except for the exemptions described [here](#), the Arizona minimum wage laws apply only to the payment of wages to employees. Arizona's minimum wage laws do not apply to independent contractors.

Does the Arizona minimum wage apply to volunteers?

No. An individual that works for another person without any express or implied compensation agreement is not an employee under Arizona minimum wage laws. This may include an individual that volunteers services for civic, charitable, or humanitarian reasons that are offered freely and without direct or implied pressure or coercion from an employer, provided that the volunteer is not otherwise employed by the employer to perform the same type of services as those for which the individual proposes to volunteer.

May an employer take a credit against the minimum wage for tools or uniforms?

No. Unless included by a bona fide collective bargaining agreement applicable to the particular employee, an employer may not claim a credit towards minimum wage for the cost of any tools, equipment, uniforms, or any other garment worn by an employee as a condition of employment. This also includes the cleaning or maintenance of uniforms and tools.

Is an employer subject to Arizona’s minimum wage laws required to pay at least minimum wage for all hours worked?

Yes. Minimum wage must be paid for all hours worked regardless of the frequency of payment and regardless of whether the wage is paid on an hourly, salaried, commissioned, piece rate, or any other basis. If in any workweek the combined wages of an employee are less than the applicable minimum wage, the employer must pay, in addition to sums already earned, no less than the difference between the amounts earned and the minimum wage as required under Arizona’s minimum wage laws.

How does an employer determine whether a commissioned employee was paid at least minimum wage in a given workweek?

To determine whether an employer has paid a commissioned employee minimum wage for each hour worked in a given workweek, the employer may combine all monetary compensation (including commissions) earned by the employee during the applicable workweek. If the combined compensation is less than the applicable minimum wage multiplied by the hours that the employee worked that workweek, the employer must make up the difference between the amount actually earned and the current minimum wage multiplied by the hours worked.

For example, if a commissioned employee earns \$200 in a 40-hour workweek (including all commissions) and the current minimum wage is \$10 per hour, Arizona’s minimum wage laws require that the employee earned at least \$400 (40 hours x \$10 per hour). In this example, the employer would be responsible for paying the employee an additional \$200 to make up the difference between the employee’s actual earnings and the required minimum wage.

For more information about the current minimum wage, see [What is Arizona’s 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 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. Arizona Revised Statutes § 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 (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 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.

What kind of recordkeeping is required by Arizona's minimum wage laws?

[Unless otherwise exempted from the recordkeeping requirements](#), employers subject to Arizona's minimum wage laws are required to keep records that employers generally maintain in their ordinary business practice, and track records required under the federal Fair Labor Standards Act. Employers are required to maintain payroll records showing the hours worked and wages paid, including basic time and earning cards or sheets, wage rate tables, records of additions to or deductions from wages paid and any written agreement relied upon to calculate credits toward the minimum wage. Separate recordkeeping requirements are permitted for employees on fixed schedules and employees who are compensated on a salary basis at a rate that exceeds the minimum wage required under the Fair Wages and Healthy Families Act and who, under the federal Fair Labor Standards, are an exempt bona fide executive, administrative, or professional employee, including an employee employed in the capacity of academic administrative personnel or teachers in elementary or secondary schools, or in outside sales.

How long is an employer required to keep records required by Arizona's minimum wage laws?

Four years.

What happens if an employer violates the Fair Wages and Healthy Families Act's recordkeeping and posting requirements?

An employer who violates the Fair Wages and Healthy Families Act's recordkeeping and posting requirements is subject to a civil penalty of at least \$250 for the first violation and at least \$1000 for each subsequent or willful violation. Special monitoring and inspections may also be imposed. Additionally, if an employer fails to maintain required records, it will be presumed that the employer did not pay the required minimum wage or earned paid sick time in a disputed case. An employer has the right to rebut this presumption with evidence that the employer paid the employee the required minimum wage.

How can Arizona's minimum wage be higher than the federal minimum wage?

Under federal law, a state may require payment of a minimum wage that exceeds the federal minimum wage.

Which minimum wage law applies to Arizona employers – state or federal?

Most employers are subject to both federal and state minimum wage laws. When there are different requirements between the laws, employers must follow the requirement that is the most beneficial to the employee. Because Arizona's minimum wage laws require payment of a higher minimum wage than federal law, an Arizona employer who is subject to both laws must pay the Arizona minimum wage rate.

Can an employee agree to work for less than Arizona's minimum wage?

No. The minimum wage obligation cannot be waived by any verbal agreement, written agreement, or employment contract.

Tipped Employees

What is the Arizona minimum wage for tipped employees?

Employers are permitted to pay tipped employees a maximum of \$3.00 per hour less than non-tipped employees, provided that the tipped employees earn at least minimum wage for all hours worked each week (when tips are included). However, if a tipped employee does not earn the required minimum wage after including tips, the employer is required to make up the difference. For more information about who qualifies as a tipped employee, see [What is a tipped employee?](#) For information about steps that an employer must take to assert a tip credit of up to \$3.00, see [What steps must an employer take to assert a "tip credit" of up to \\$3.00 per hour for tipped employees?](#)

What is a tipped employee?

A tipped employee is an employee who customarily and regularly receives tips from customers, including the occupation of waiter, waitress, bellhop, busboy, car wash attendant, hairdresser, barber, valet, and service bartender. The employee must actually receive the tip free of any control by the employer. The tip must be the property of the employee.

What steps must an employer take to assert a "tip credit" of up to \$3.00 per hour for tipped employees?

Employers are permitted to pay tipped employees a maximum of \$3.00 per hour less than non-tipped employees, provided that the tipped employees earn at least minimum wage for all hours worked each week (when tips are included). If an employer elects to utilize this tip credit provision, the employer must:

- Provide written notice to each employee prior to exercising the tip credit.
- Be able to show that the employee received at least the minimum wage when direct wages and the tip credit are combined.
- Permit the tipped employee to retain all tips, whether or not the employer elects to take a tip credit for tips received, except to the extent the employee participates in a valid tip pooling arrangement.

For tipped employees, how does an employer establish that direct wages combined with tips equals or exceeds the Arizona minimum wage?

Employers are permitted to pay tipped employees a maximum of \$3.00 per hour less than non-tipped employees, provided that the tipped employees earn at least minimum wage for all hours worked each week (when tips are included). In calculating whether a tipped employee has earned at least minimum wage, tips must be counted in the workweek in which the tip is earned. Employers utilizing a tip credit must maintain a record of any tips the employer considered for purposes of paying minimum wage.

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.

May tipped employees pool, share, or split tips?

Yes. Employees who customarily and regularly receive tips may pool, share, or split tips between them. Where employees pool, share, or split tips, the amount actually retained by each employee is considered the tip of the employee who retained it.

May tipped employees pool, share or split tips with employees who do not customarily and regularly receive tips in the occupation in which they work, such as management or food preparers?

Yes, but the tips received by the employee who does not customarily and regularly receive tips may not be credited toward that employee's minimum wage.

For tipped employees, to what hours may a "tip credit" be applied?

Employers are permitted to pay tipped employees a maximum of \$3.00 per hour less than non-tipped employees, provided that the tipped employees earn at least minimum wage for all hours worked each week (when tips are included). The tip credit is available only for hours an employee works in the tipped occupation. Where a tipped employee is routinely assigned to duties associated with a non-tipped occupation, such as maintenance or general preparation work, no tip credit may be taken for the hours worked in performing such duties.

Is a compulsory charge for service a tip?

Maybe. A compulsory charge for service constitutes a tip only if it is actually distributed by the employer to the employee in the pay period in which the charge is earned. A compulsory charge for service imposed on a customer by an employer is not a tip if it is considered part of the employer's gross receipts and is not distributed to the employee in the pay period in which the charge is earned.

Earned Paid Sick Time

What is earned paid sick time?

Earned paid sick time is leave time that is compensated at the same hourly rate (but no less than minimum wage) and with the same benefits, including health care benefits, that an employee would have received for the work hours during which earned paid sick time is used. Generally, employees may use earned paid sick time in the following circumstances:

- Medical care or mental or physical illness, injury, or health condition of the employee or any of the employee’s family members (see the definition of “family member” in Arizona Revised Statutes § 23-371 to see who qualifies as a family member);
- A public health emergency affecting the employee or a family member of the employee pursuant to [Arizona Revised Statutes § 23-373](#); and
- An absence due to domestic violence, sexual violence, abuse, or stalking involving the employee or any of the employee’s family members (see the definition of “family member” in Arizona Revised Statutes § 23-371 to see who qualifies as a family member).

See [Arizona Revised Statutes § 23-373](#) for further detail concerning authorized uses of earned paid sick time.

What is equivalent paid time off?

The Industrial Commission is proposing rules that define “equivalent paid time off” as paid time off provided under a paid leave policy, such as a paid time off policy, that makes available an amount of paid leave sufficient to meet the accrual requirements of the Fair Wages and Healthy Families Act that may be used for the same purposes and under the same conditions as earned paid sick time.

When can employees begin accruing earned paid sick time?

Employees can begin accruing earned paid sick time at the commencement of employment or July 1, 2017, whichever is later. For more information, see [How soon can an employee begin using earned paid sick time?](#)

What can earned paid sick time be used for?

Generally, employees may use earned paid sick time in the following circumstances:

- Medical care or mental or physical illness, injury, or health condition of the employee or any of the employee’s family members (see the definition of “family member” in Arizona Revised Statutes § 23-371 to see who qualifies as a family member);
- A public health emergency affecting the employee or a family member of the employee pursuant to [Arizona Revised Statutes § 23-373](#); and
- An absence due to domestic violence, sexual violence, abuse, or stalking involving the employee or any of the employee’s family members (see the definition of “family member” in Arizona

Revised Statutes § 23-371 to see who qualifies as a family member).

See [Arizona Revised Statutes § 23-373](#) for further detail concerning authorized uses for earned paid sick time.

Is a service animal a “family member” under the Act?

Absent additional legislative or judicial guidance, the Industrial Commission will not enforce against an employer that does not consider a service animal a “family member” within the meaning of the Fair Wages and Healthy Families Act. However, the loss or incapacitation of a service animal may give rise to a qualifying condition for the use of earned paid sick time (such as a mental or physical illness, injury, or health condition of the employee or the employee’s family member).

See [What can earned paid sick time be used for?](#) and [Arizona Revised Statutes § 23-371](#) for the definition of a “family member.”

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

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.

Which employers are subject to earned paid sick time laws?

Under the Fair Wages and Healthy Families Act (the “Act”), “employers” are subject to Arizona’s earned paid sick time laws. Earned paid sick time accrual rates, however, differ based on an employer’s number of employees.

Under the Act, “employer” is defined as any corporation, proprietorship, partnership, joint venture, limited liability company, trust, association, political subdivision of the state, individual or other entity acting directly or indirectly in the interest of an employer in relation to an employee, but does not include the state of Arizona, or the United States. Notably, this definition differs slightly from the definition of “employer” in the minimum wage context because it has no exemption for “small businesses.” Therefore, even “small businesses” that are exempt from the minimum wage requirements are subject to the Act’s earned paid sick time requirements.

When can an on-call employee use earned paid sick time?

Absent additional statutory or judicial guidance, the Industrial Commission does not intend to enforce against employers who restrict on-call employees’ earned paid sick time use to periods of time in which the on-call employee is scheduled to work, or periods of time that the on-call employee would be scheduled to work but for circumstances justifying the use of earned paid sick time.

Example 1. On-call Employee A is scheduled to work for five consecutive days. Assuming circumstances justifying the use of earned paid sick time, Employee A may use available earned paid sick time for all or a portion of the scheduled five-day period.

Example 2. On-call Employee B receives a call from Employee B’s employer to work the same day and the following day. Assuming circumstances justifying the use of earned paid sick time, Employee B may use available earned paid sick time for all or any portion of the two days.

Example 3. An employer permits its employees to select periods of work from a posted schedule. Assuming circumstances justifying the use of earned paid sick time, on-call Employee C may use available earned paid sick time for all or any portion of the work hours that Employee C selects and is assigned.

Does the Fair Wages and Health Families 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 are entitled to 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 are entitled to 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?](#)

Can an employer front load earned paid sick time?

Yes. The Fair Wages and Healthy Families Act (the “Act”) permits employers to provide all earned paid sick time that an employee is expected to accrue in a year at the beginning of the employer’s year.

Note: The Industrial Commission’s proposed rules would permit employers to satisfy the Act’s accrual and carryover provisions by annually front loading earned paid sick time. See [Is an employer that front loads earned paid sick time required to provide additional accrual or carryover?](#)

How does an employer front load earned paid sick time for a new hire?

The Fair Wages and Healthy Families Act (the “Act”) permits employers to provide all earned paid sick time that an employee is expected to accrue in a year at the beginning of the employer’s year. The Industrial Commission’s proposed rules specify that an employer who hires an employee after the beginning of the employer’s year is not required to provide additional earned paid sick time during that

year if the employer provides the employee - for immediate use on the employee's ninetieth calendar day after commencing employment - an amount of earned paid sick time that meets or exceeds the employer's reasonable projection of the amount of earned paid sick time that the employee would accrue from the date of hire through the end of the employer's year at a rate of one hour for every 30 hours worked. If the projection of earned paid sick time turns out to be less than the employee would have accrued based on hours actually worked during the employer's year, the employer must immediately provide an amount of earned paid sick time that reflects the difference between the employer's prior projection and the amount of earned paid sick time that the employee would have accrued for hours actually worked in the year.

Example. Employer A has 15 or more employees who work 40-hour weeks. It hires a new employee with twelve 40-hour weeks remaining in its year. Employer A may reasonably project that the employee will work 480 hours in the remainder of the year (12 weeks x 40 hours = 480 hours), which would entitle the employee to 16 hours of earned paid sick time (480 hours ÷ 30 = 16). If Employer A provides the new employee with 16 hours of earned paid sick time that the employee may use beginning on the ninetieth calendar day after the employee commences employment, Employer A is not required to provide additional accrual unless the employee actually works more than the 480 projected hours. If, for example, the employee actually works 540 hours, Employer A will have to provide two additional hours of earned paid sick time (60 additional hours ÷ 30 = 2).

What is a "year" for earned paid sick time purposes?

Under the Fair Wages and Healthy Families 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 entitlements in the first partial year after July 1, 2017, based on the number of days remaining in the employer's "year?"

Absent additional statutory and judicial guidance, the Industrial Commission will not enforce against 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) and prorates employees' annual earned paid sick time accrual and usage entitlements in the first partial year after July 1, 2017, based on the number of days remaining in the employer's "year." Prorated accrual and usage entitlements should be rounded up to the nearest hour or the smallest increment that the employer's payroll system uses to account for absences or use of other time (see [What is the smallest increment of earned paid sick time that an employee can use?](#) for more information on this topic), whichever is smaller. An employee's *accrual rate*, however, may not be prorated during the first partial year after July 1, 2017, meaning that an employee may still accrue at a rate of 1 hour per 30 hours worked. 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, 2017. 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 first partial year after July 1, 2017, 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, 2017, through May 31, 2018. 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 first partial year after July 1, 2017, 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").

How should an employer determine how many employees it has for purposes of the earned paid sick time laws?

The Fair Wages and Healthy Families Act (the "Act") counts everyone performing work for compensation, whether full-time, part-time, or on a temporary basis, as an employee. For purposes of determining the number of employees, an employer has 15 or more employees if it maintained 15 or more employees on the payroll for some portion of a day in each of 20 different calendar weeks (the weeks do not have to be consecutive) in the current or preceding year.

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?](#)

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 enforce against an employer who does not count its non-Arizona employees in its 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 total 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 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 40 hours of earned paid sick time per year). See [How much earned paid sick time must an employer offer an employee?](#)

May an employer prorate earned paid sick time accrual and usage entitlements for partial-year employees or employees hired after the first day of an employer's year?

No. 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 entitlements are based solely on the size of the employer and are not based upon whether an employee works a full or partial year.

Example. Employer A has 42 employees and hires a new employee three months into its year. Employer A plans to keep the new employee on staff for six months. The employee is entitled to accrue one hour of earned paid sick time for every 30 hours worked and remains subject to a usage and accrual entitlement of up to 40 hours. Employer A cannot prorate the new employee's usage and accrual entitlement on the basis that the employee was hired after the start of Employer A's year or because Employer A only plans to keep the new employee for a six-month period.

See [How much earned paid sick time must an employer offer an employee?](#) for more information.

How does an employer determine hourly rates for earned paid sick time payment purposes?

The Industrial Commission is proposing rules consistent with the following methods for determining hourly rates. In no case may the hourly rate paid for earned paid sick time be less than minimum wage.

- **For employees with a single hourly rate.** The same hourly rate that the employee would have earned for the period of time in which earned paid sick time is used, but in no case less than minimum wage.

Example. If an employee's hourly rate is \$15 per hour, the employer would be required to pay the employee \$15 for each hour of earned paid sick time used.

- **For employees with multiple hourly rates.** The hourly rate the employee would have earned, if known, for each hour of earned paid sick time used. If this is not known, an employer should use the weighted average of all hourly rates of pay during the previous pay period.

Example 1. Rates of pay known. Employee A uses eight hours of earned paid sick leave. Employer B knows that Employee A would have earned \$12 per hour for the first 3 hours and \$14 per hour for the last five hours of the leave. Under these circumstances, Employer B would be required to pay Employee A \$106 for the earned paid sick time used ($[\$12 \times 3 \text{ hours}] + [\$14 \times 5 \text{ hours}] = \106).

Example 2. Weighted average. A multiple-hourly-rate employee worked 80 hours the previous pay period. Employee B earned \$12 per hour for 50 hours, and \$14 per hour for 30 hours. The employer can calculate the weighted average of Employee B's hourly rates by dividing the total dollars earned in the previous pay period by the total number of hours worked in that pay period. In this case, Employee B earned \$1,020 ($[\$12 \times 50 \text{ hours}] + [\$14 \times 30 \text{ hours}] = \$1,020$) for 80 hours of work. Dividing \$1,020 by 80 hours provides a weighted average rate of pay of \$12.75 per hour. Thus, Employee B would be entitled to earned paid sick time at a rate of \$12.75 per hour.

- **For salaried employees.** The wages an employee earns during each pay period covered by the salary divided by the number of hours agreed to be worked during each pay period, if the number of hours to be worked during each pay period was previously established. If unknown, the wages an employee earns during each workweek covered by the salary in the current year divided by 40 hours. The Industrial Commission will consider an acknowledged policy concerning the number of hours to be worked during each pay period adequate evidence of an agreement between employee and employer. Note: No additional pay is due when the employee's use of earned paid sick time results in no reduction in the employee's regular salary during the pay period in which the earned paid sick time is used.

Example. Employer A has not previously established the number of hours its salaried employees work in each pay period. Employee B earns \$2,000 per workweek. Employee B's hourly rate, for earned paid sick time purposes, is \$50 per hour ($\$2,000 \div 40$ hours). If Employee B's receives no reduction in salary as a result of the use of earned paid sick time, however, Employer A would not be required to offer Employee B additional pay.

- **For employees paid on a commission, piece-rate, or fee-for-service basis.** Such employees' hourly rates should be determined in the following order of priority:
 - The hourly rate of pay previously agreed upon by the employer and the employee as: (1) a minimum hourly rate for work performed; or (2) an hourly rate for payment of earned paid sick time. The Industrial Commission will consider an employee-acknowledged policy concerning the hourly rate of pay adequate evidence of an agreement between employee and employer.
 - The wages that the employee would have been paid, if known, for the period of time in which earned paid sick time is used, divided by the number of hours of earned paid sick time used.
 - A reasonable estimation of the commission, piece-rate, or fee-for-service compensation that the employee would have been paid for the period of time in which the earned paid sick time is used, divided by the number of hours of earned paid sick time used.
 - The hourly average of all commission, piece-rate, or fee-for-service compensation that the employee earned during the previous 90 days, if the employee worked regularly during the previous 90-day period, based on: (1) hours that the employee actually worked (if known); or (2) a 40-hour workweek.

Example 1. Employer knows the hours worked in the previous 90 days. Employer A did not previously establish an hourly rate for Employee B's earned paid sick time or a minimum hourly rate for work performed and it does not know and cannot reasonably estimate the wages that the employee would have made for the period of time when the earned paid sick time is used. Employee B worked 480 hours over the previous 90

days, earning \$7,680. Employee B's earned paid sick time hourly rate is \$16 per hour ($\$7,680 \div 480 \text{ hours} = \16 per hour).

Example 2. Employer does not know the hours worked in the previous 90 days.

Employer A did not previously establish an hourly rate for Employee B's earned paid sick time or a minimum hourly rate for work performed and it does not know and cannot reasonably estimate the wages that the employee would have made for the period of time when the earned paid sick time is used. Employee B worked 13 weeks in the previous 90 days ($90 \div 7$, rounded), earning \$6,240. Employee B's earned paid sick time hourly rate is \$12 per hour ($\$6,240 \div [13 \text{ weeks} \times 40 \text{ hours}] = \12). Had Employee B's average hourly rate fallen below minimum wage, Employee B's earned paid sick time hourly rate would be minimum wage.

- The hourly average of all commission, piece-rate, or fee-for-service compensation that the employee earned during the previous 365 days, based on: (1) hours that the employee actually worked (if known); or (2) a 40-hour workweek.

Example 1. Employer knows the hours worked in the previous 365 days. Employer A did not previously establish an hourly rate for Employee B's earned paid sick time or a minimum hourly rate for work performed; it does not know and cannot reasonably estimate the wages that the employee would have made for the period of time when the earned paid sick time is used; and Employee B did not work regularly in the last 90 days. Employee B worked 1040 hours over the previous 365 days, earning \$14,560. Employee B's earned paid sick time hourly rate is \$14 per hour ($\$14,560 \div 1040 \text{ hours} = \14 per hour).

Example 2. Employer does not know the hours worked in the previous 365 days.

Employer A did not previously establish an hourly rate for Employee B's earned paid sick time or a minimum hourly rate for work performed; it does not know and cannot reasonably estimate the wages that the employee would have made for the period of time when the earned paid sick time is used; and Employee B did not work regularly in the last 90 days. Employee B worked 52 weeks in the previous 365 days ($365 \div 7$, rounded), earning \$37,440. Employee B's earned paid sick time hourly rate is \$18 per hour ($\$37,440 \div [52 \text{ weeks} \times 40 \text{ hours}] = \18).

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) must be included when computing an employee's hourly rate. Overtime, holiday pay, bonuses, other types of incentive pay (which do not include shift differentials and premiums meant to compensate and employee for work performed under differing conditions), tips, and gifts do not need to be included in an hourly wage rate determination. Pursuant to the Fair wages and Healthy Families 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?

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) must be included when computing an employee's hourly rate for earned paid sick time purposes. On the other hand, overtime, holiday pay, bonuses, other types of incentive pay (which do not include shift differentials and premiums meant to compensate an employee for work performed under differing conditions), 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?

The Industrial Commission is proposing rules consistent with the following:

Overtime, holiday pay, bonuses, other types of incentive pay (which do not include shift differentials and premiums meant to compensate an employee for work performed under differing conditions), 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.

Must an employer pay an employee for unused earned paid sick time at the end of each year or at separation?

No, but an employer may choose to pay out unused earned paid sick time at the end of the employer's year or at separation. The Fair Wages and Healthy Families Act does not require an employer to pay employees for unused earned paid sick time at the end of each year or at separation. An employer who elects to pay an employee for unused earned paid sick time at the end of the employer's year must comply with the requirements of Arizona Revised Statutes § 23-372(D)(4).

Is an employer required to provide notice to its employees concerning earned paid sick time rights and responsibilities?

Yes. Employers must provide employees written notice of the following at the commencement of employment or by July 1, 2017, whichever is later:

- Employees are entitled to earned paid sick time;
- The amount of earned paid sick time that employees are entitled to accrue;
- The terms of use guaranteed by Arizona's earned paid sick time laws;
- That retaliation against employees who request or use earned paid sick time is prohibited;
- That each employee has the right to file a complaint if earned paid sick time is denied by the employer or the employee is subjected to retaliation for requesting or taking earned paid sick time; and

- Contact information for the Industrial Commission.

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

An employer must also provide employees either in or on an attachment to the employee's regular paycheck:

- The amount of earned paid sick time available to the employee;
- The amount of earned paid sick time taken by the employee to date in the year; and
- The amount of pay time the employee has received as earned paid sick time.

Note: The Industrial Commission is proposing rules that would define these terms as follows:

- "Amount of earned paid sick time available to the employee" means the amount of earned paid sick time that is available to the employee for use in the current year.
- "Amount of earned paid sick time taken by the employee to date in the year" means the amount of earned paid sick time taken by the employee to date in the current year. Where an employee has used available equivalent paid time off for either the purposes enumerated in Arizona Revised Statutes § 23-373 or other purposes, the employer may count that usage towards the "amount of earned paid sick time taken by the employee to date in the year."
- "Amount of pay the employee has received as earned paid sick time" means the amount of pay the employee has received as earned paid sick time to date in the current year. Where an employee has received pay for equivalent paid time off for the purposes enumerated in Arizona Revised Statutes § 23-373 or other purposes, the employer may count that pay towards the "amount of pay the employee has received as earned paid sick time."
- "Employee's regular paycheck" means a regular payroll record that is readily available to employees and contains the information required by Arizona Revised Statutes § 23-375(C), including physical or electronic paychecks or paystubs.

Can an employer satisfy the earned paid sick time notice requirements by posting the Industrial Commission's model earned paid sick time notice?

Yes. An employer can satisfy the Fair Wages and Healthy Families Act's notice requirements by posting in the workplace the Industrial Commission's model earned paid sick time notice, or a separate notice that meets the notice requirements in [Arizona Revised Statutes § 23-375](#).

See [Is an employer required to provide notice to its employees concerning earned paid sick time rights and responsibilities?](#)

Can an employer donate or loan earned paid sick time to an employee?

Yes, subject to the employer's allowance of such practices.

How soon can an employee begin using earned paid sick time?

An employee may use earned paid sick time as it is accrued or otherwise available for use. 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.

Is there a new-hire probation period before earned paid sick time begins to accrue?

No. Employees are entitled to accrue earned paid sick time immediately upon hire. The employer, however, may require that employees hired after July 1, 2017, wait 90 days before they can use earned paid sick time.

How is the accrual of earned paid sick time calculated for exempt employees?

An employee who is exempt under the federal Fair Labor Standards Act is presumed to work 40 hours per workweek, unless the employee's normal workweek is less than 40 hours (in which case accrual of earned paid sick time is based on the employee's hours in a normal workweek).

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

Absent additional legislative or judicial 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 must take prompt action to correct the error.

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

The Fair Wages and Healthy Families Act (the "Act") provides that earned paid sick time must be carried over to the following year, subject to usage limitations based on employer size. Carry over does not affect accrual or use rights under 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 Arizona Revised Statutes § 23-372(D)(4)). Assuming the employer did not buy back hours pursuant to Arizona Revised Statutes § 23-372(D)(4), Employee A remains entitled to accrue another 40 hours of earned paid sick time in Year 2 (for a maximum balance 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 Arizona Revised Statutes § 23-372(D)(4), Employee A is entitled to carry forward only 40 hours of earned paid sick time into Year 3 (though they may accrue another 40 hours in the course of Year 3). NOTE: Subject to the employer's agreement to be more generous than the Act requires, 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 Arizona Revised Statutes § 23-372(D)(4)). Assuming the employer did not buy back hours pursuant to Arizona Revised Statutes § 23-372(D)(4), Employee B remains entitled to accrue another 24 hours of earned paid sick time in Year 2 (for a maximum balance 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 Arizona Revised Statutes § 23-372(D)(4), Employee B is entitled to carry forward only 24 hours of earned paid sick time into Year 3 (though they may accrue another 24 hours in the course of Year 3). NOTE: Subject to the employer's agreement to be more generous than the Act requires, Employee B may only use 24 hours of earned paid sick time in any given year.

Alternatively, in lieu of carry over, an employer may pay an employee for unused earned paid sick time pursuant to Arizona Revised Statutes § 23-372(D)(4). Because the Act permits employers to provide paid leave policies that are more generous than the requirements of the Act, the Industrial Commission is proposing rules consistent with the following, subject to permissible restrictions on a new hire's use of earned paid sick time:

- An employer with 15 or more employees that provides its employees for immediate use at the beginning of each year 40 or more hours of earned paid sick time or 40 or more hours of equivalent paid time off is not required to provide carryover or additional accrual.
- An employer with fewer than 15 employees that provides its employees for immediate use at the beginning of each year 24 or more hours of earned paid sick time or 24 or more hours of equivalent paid time off is not required to provide carryover or additional accrual.

See [May an employer offer more generous earned paid sick time policies than those required by the Act?](#); see also [How does an employer front load earned paid sick time for a new hire?](#)

Is an employer that front loads earned paid sick time required to provide additional accrual or carryover?

Because annually front loading earned paid sick time is more generous than the Act's carryover and accrual requirements, the Industrial Commission is proposing rules consistent with the following:

1. An employer with 15 or more employees that provides its employees for immediate use at the beginning of each year 40 or more hours of earned paid sick time or 40 or more hours of equivalent paid time off is not required to provide carryover or additional accrual.
2. An employer with fewer than 15 employees that provides its employees for immediate use at the beginning of each year 24 or more hours of earned paid sick time or 24 or more hours of equivalent paid time off is not required to provide carryover or additional accrual.

Should a front-loading employer revert to a standard accrual and carryover methodology, it must provide its employees at the beginning of its first standard accrual year an amount of carryover that equals or exceeds the amount of unused earned paid sick time each employee would have been entitled to carry over, subject to usage limits, had the employer utilized an accrual method during the period of the employees' employment.

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?

Yes. The Industrial Commission is proposing rules that provide that carry over does not affect accrual, usage rights, or usage limits under the Fair Wages and Healthy Families Act. This means that, subject to front-loading or payout pursuant to [Arizona Revised Statutes § 23-372\(D\)\(4\)](#), an employee retains the right to accrue additional earned paid sick time in a subsequent year, regardless of the amount of earned paid sick time carried over to the subsequent year. Carried over earned paid sick time, however, may remain subject to yearly usage limits. See [May an employer offer more generous earned paid sick time policies than those required by the Act?](#) See also [Is an employer that front loads earned paid sick time required to provide additional accrual or carryover?](#)

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What happens to accrued earned paid sick time if an employee is relocated or transferred within the same company?

The employee retains all accrued earned paid sick time already accrued at the prior division, entity, or location.

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

If rehire occurs within nine months of separation from the same employer, any previously-accrued, unused earned paid sick time must be reinstated and the employee is entitled to use and accrue earned paid sick time immediately at the re-commencement of employment.

But see [If an employer voluntarily pays an employee for unused earned paid sick time at separation from employment, is the employer required to reinstate the employee's accrued but unused earned paid sick time if the employee is rehired within nine months?](#)

If an employer voluntarily pays an employee for unused earned paid sick time at separation from employment, is the employer required to reinstate the employee's unused earned paid sick time if the employee is rehired within nine months?

Absent additional statutory or judicial guidance, the Industrial Commission will not enforce against an employer that voluntarily pays an employee for unused earned paid sick time at separation from employment and does not reinstate earned paid sick time if the employee is rehired within nine months, provided that the employee accepted the payment for the unused earned paid sick time.

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?](#)

Can an employer offer a single bank of paid time off that may be used for earned paid sick time or other purposes (such as vacation, bereavement, and holiday leave)?

Yes, provided that the paid time off meets or exceeds the requirements of the Fair Wages and Healthy Families Act.

When an employer's paid leave policy either meets or exceeds the requirements of the Fair Wages and Healthy Families Act, can the employer carve out a specific bank of time that only applies to earned paid sick time?

Yes. The Fair Wages and Healthy Families Act does not prohibit tracking earned paid sick time separately from other forms of leave.

When an employer's paid leave policy either meets or exceeds the requirements of the Fair Wages and Healthy Families Act 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?](#)

If an employer's paid leave policy either meets or exceeds the requirements of the Fair Wages and Healthy Families Act, can an employer count time that was accrued and/or used before the effective date of the Act (July 1, 2017)?

No. Because the Fair Wages and Health Families Act mandates that earned paid sick time begins to accrue at the commencement of employment or on July 1, 2017, whichever is *later*, there is no statutory basis for counting leave time accrued or used before July 1, 2017. The Industrial Commission has, however, provided methods for prorating the remainder of an employer's year if an employer's year ends less than 365 days after July 1, 2017. See [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 entitlements in the first partial year after July 1, 2017 based on the number of days remaining in the employer's "year?"](#)

How does an employee request earned paid sick time?

A request to use earned paid sick time may be made 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.

When leave is not foreseeable, an employer may require an employee to follow a written policy that contains procedures for the employee to provide notice. An employer that has not provided to the employee a copy of its written policy for providing such notice may not deny earned paid sick time to the employee based on non-compliance with such a policy. See [Can an employer require notice of the need to use earned paid sick time when the need is not foreseeable?](#)

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, unless the leave is unforeseeable and the employer has provided a written policy concerning unforeseeable leave. 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. When leave is not foreseeable, however, the employer may require an employee to follow a written policy that contains procedures for the employee to provide notice. An employer that has not provided to the employee a copy of its written policy for providing such notice may not deny earned paid sick time to the employee based on non-compliance with such a policy. See [Can an employer require notice of the need to use earned paid sick time when the need is not foreseeable?](#)

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

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.

When leave is not foreseeable, an employer may require an employee to follow a written policy that contains procedures for the employee to provide notice. An employer that has not provided to the employee a copy of its written policy for providing such notice may not deny earned paid sick time to the employee based on non-compliance with such a policy. See [Can an employer require notice of the need to use earned paid sick time when the need is not foreseeable?](#)

Can an employer require 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.

What is an employer's recourse if an employee fails to provide notice in accordance with an employer's written policy when earned paid sick leave is not foreseeable?

Absent additional legislative or judicial guidance, when leave is not foreseeable, the Industrial Commission will not enforce against an employer who elects not to designate an employee's leave as earned paid sick time when the employee fails to provide notice in accordance with the employer's written policy, provided that: (1) employer provided to the employee a copy of the written policy; (2) the written policy does not

discriminate against employees using earned paid sick time; and (3) the employee does not have a reasonable justification (such as an emergency situation or the employee's own incapacitation) for failing to follow the written policy.

Can an employee's family member, medical provider, friend, or other person submit a request for earned paid sick time on an employee's behalf?

The Fair Wages and Healthy Families Act (the "Act") states that "[e]arned paid sick time shall be provided upon the request of an employee. Such request may be made orally, in writing, by electronic means or by any other means acceptable to the employer." The Act is silent as to whether an employee's family member, medical provider, friend, or other person may submit a request on the employee's behalf. Because the Act authorizes the use of earned paid sick time for conditions that may render an employee unable to make requests, authorized individuals may request earned paid sick time for an employee in appropriate circumstances.

What is an employer's recourse if an employee uses earned paid sick time for purposes that are not enumerated in the Fair Wages and Healthy Families Act?

Absent additional legislative or judicial guidance, the Industrial Commission will not enforce against employers who elect not to designate leave time used for purposes other than those enumerated in the Fair Wages and Healthy Families Act (the "Act") as earned paid sick time.

Can an employer require that an employee seeking to use earned paid sick time search for or find a replacement worker to cover the employee's absence?

No.

What is the smallest increment of earned paid sick time that an employee can use?

Earned paid sick time can either be used in hourly increments or the smallest increment that the employer's payroll system uses to account for absences or use of other time, whichever is smaller. For example, if an employer's payroll system accounts for absences or use of other time in 6 minute increments (a tenth of an hour), an employee may use earned paid sick time in this same increment.

The Industrial Commission has proposed rules that define the "smallest increment that the employer's payroll system uses to account for absences or use of other time" as the smallest increment of time that an employer utilizes, by policy or practice, to account for absences or use of other paid time off.

Can an employer require employees to document absences in which earned paid sick time was used?

Yes, but only if an employee uses earned paid sick time on three or more consecutive work days. Where earned paid sick time is used on three or more consecutive work days, an employer can require reasonable documentation that the earned paid sick time was used for purposes permitted by the Fair Wages and Healthy Families Act. For further information about permitted uses of earned paid sick time, see [What can earned paid sick time be used for?](#)

Reasonable documentation includes documentation signed by a health care professional indicating that the earned paid sick time is necessary. In the case of domestic violence, sexual violence, abuse or stalking, the following documents are considered reasonable:

- A police report;
- A protective order, injunction against harassment, general court order, or other evidence from a court or prosecuting attorney;
- A signed statement from a domestic violence or sexual violence program, or victim services organization affirming that the employee or employee’s family member is receiving services related to domestic violence, sexual abuse, or stalking;
- A signed statement from a witness advocate concerning services from a victim services organization affirming that the employee or employee’s family member is receiving services related to domestic violence, sexual abuse, or stalking;
- A signed statement from an attorney, member of the clergy, or a medical or other professional affirming that the employee or employee’s family member is receiving services related to domestic violence, sexual abuse, or stalking ; or
- An employee’s legible, written statement concerning status of the employee or the employee’s family member as a victim of domestic violence, sexual violence, abuse, or stalking that signals the employee’s identity and (if applicable) relationship to the family member.

Can an employer require that an employee using earned paid sick time explain the nature of the relevant health condition or the details of the domestic violence, sexual violence, abuse, or stalking?

No. Although an employer can require reasonable documentation of absences of three or more consecutive work days, an employer may not require that an employee specify the relevant health condition or the details of domestic violence, sexual violence, abuse or stalking. See [Can an employer require employees to document absences in which earned paid sick time was used?](#)

Can an employer require that an employee document an absence of fewer than three consecutive work days where federal law permits?

Yes. The Fair Wages and Healthy Families Act (the “Act”) provides that nothing in the Act may be interpreted or applied so as to create a conflict with federal law.

Can an employer count earned paid sick time as an absence that may lead to an adverse action (including discipline and discharge)?

No.

Is withholding perfect attendance bonuses because of earned paid sick time usage a violation of the Act?

Absent additional legislative or judicial guidance, the Industrial Commission does not intend to enforce against employers who deny perfect attendance bonuses to employees who utilize earned paid sick time, provided that employees who have used other leave types are similarly disqualified from perfect attendance bonuses.

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 time 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 is also proposing rules that would require employers to keep the following earned paid sick time records:

- The amount of earned paid sick time available to the employee;
- The amount of earned paid sick time taken by the employee to date in the year;
- The amount of pay the employee has received as earned paid sick time; and
- The employee's earned paid sick time balance. "The employee's earned paid sick time balance" means the sum of earned paid sick time or equivalent paid time off that is: (1) carried over to the current year; (2) accrued to date in the current year; and (3) provided to date in the current year pursuant to A.R.S § 23-372(D)(4) or A.A.C. R20-5-1206(F), (G), or (H).

The Industrial Commission is proposing rules that would define these terms as follows:

- "Amount of earned paid sick time available to the employee" means the amount of earned paid sick time or equivalent paid time off that is available to the employee for use in the current year.
- "Amount of earned paid sick time taken by the employee to date in the year" means the amount of earned paid sick time or equivalent paid time off taken by the employee to date in

the current year. Where an employee has used available equivalent paid time off for either the purposes enumerated in Arizona Revised Statutes § 23-373 or other purposes, the employer may count that usage towards the “amount of earned paid sick time taken by the employee to date in the year.”

- “Amount of pay the employee has received as earned paid sick time” means the amount of pay the employee has received as earned paid sick time or equivalent paid time off to date in the current year. Where an employee has received pay for equivalent paid time off for the purposes enumerated in Arizona Revised Statutes § 23-373 or other purposes, the employer may count that pay towards the “amount of pay the employee has received as earned paid sick time.”

The Industrial Commission will update this FAQ as the rulemaking process progresses.

What information must be recorded in, or on an attachment to, the employee's regular paycheck?

The Fair Wages and Healthy Families Act (the “Act”) requires that the following information be recorded in, or on an attachment to, the employee's regular paycheck (see [What qualifies as an employee's regular paycheck?](#) For more information about the Industrial Commission's proposed definition of an “employee's regular paycheck):

- The amount of earned paid sick time available to the employee;
- The amount of earned paid sick time taken by the employee to date in the year; and
- The amount of pay the employee has received as earned paid sick time.

Note: The Industrial Commission is proposing rules that would define these terms as follows:

- “Amount of earned paid sick time available to the employee” means the amount of earned paid sick time or equivalent paid time off that is available to the employee for use in the current year.
- “Amount of earned paid sick time taken by the employee to date in the year” means the amount of earned paid sick time or equivalent paid time off taken by the employee to date in the current year. Where an employee has used available equivalent paid time off for either the purposes enumerated in Arizona Revised Statutes § 23-373 or other purposes, the employer may count that usage towards the “amount of earned paid sick time taken by the employee to date in the year.”
- “Amount of pay the employee has received as earned paid sick time” means the amount of pay the employee has received as earned paid sick time or equivalent paid time off to date in the current year. Where an employee has received pay for equivalent paid time off for the purposes enumerated in Arizona Revised Statutes § 23-373 or other purposes, the employer may count that pay towards the “amount of pay the employee has received as earned paid sick time.”

When an employer’s paid leave policy either meets or exceeds the requirements of the Fair Wages and Healthy Families Act, and an employee uses accrued leave for reasons unrelated to earned paid sick time (such as vacation), how does the employer account for this time on the employee’s regular paycheck?

The Industrial Commission is proposing rules that permit an employer to count equivalent paid time off (see [What is equivalent paid time off?](#)) used for either the purposes enumerated in Arizona Revised Statutes § 23-373 or other purposes (such as vacation) towards the “amount of earned paid sick time taken by the employee to date in the year” and the “amount of pay the employee has received as earned paid sick time.” In other words, when an employee uses equivalent paid time (for earned paid sick time, vacation, or another reasons) the employer may count that time as “taken” and “received” on the employee’s regular paycheck. See [What information must be recorded in, or on an attachment to, the employee's regular paycheck?](#) for definitions of these terms.

What qualifies as an employee’s regular paycheck?

The Industrial Commission is proposing rules that define an “employee’s regular paycheck” as a regular payroll record that is readily available to employees and contains the information required by Arizona Revised Statutes § 23-375(C), including physical or electronic paychecks or paystubs.

How long is an employer required to keep the records under Arizona’s earned paid sick time laws?

Four years.

How do collective bargaining agreements affect earned paid sick time obligations and rights?

The Fair Wages and Healthy Families Act’s (the “Act”) earned paid sick time requirements do not apply to employees covered by a valid collective bargaining agreement, provided that such requirements are expressly waived in the collective bargaining agreement in clear and unambiguous terms. Additionally, the Act’s earned paid sick time provisions do not apply to employees covered by a collective bargaining agreement in effect on the effective date of the Act until the stated expiration date in the collective bargaining agreement.

How do commonly-owned entities account for earned paid sick time?

Absent addition legislative or judicial guidance, the Industrial Commission will consider multiple entities as a single employer for purposes of the Act’s earned paid sick time provisions when sufficient commonality exists between the entities. The Industrial Commission will consider various factors, including the following, when determining whether multiple entities constitute a common employer:

- Who owns the employers (*i.e.*, one employer owns part or all of the other or they have common owners);
- Whether the employers have any overlapping officers, directors, executives, or managers;
- Whether the employers share control over operations (*e.g.*, hiring, firing, payroll, advertising, overhead costs);

- Whether the employers' operations are intermingled (*e.g.*, there is one administrative operation for all employers, or the same person schedules and pays the employees regardless of which employer they work for);
- Whether one employer supervises the work of the other;
- Whether the employers share supervisory authority for the employee;
- Whether the employers treat the employees as a pool of employees available to all;
- Whether the potential joint employers share clients or customers; and
- Whether there are any agreements between the employers.

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 or file a civil lawsuit. To file a complaint online concerning underpayment of minimum wage, click [here](#). To file a complaint online concerning underpayment of earned paid sick time, click [here](#). To file a claim in writing, send the completed claim form 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 the wages were due. The Industrial Commission is proposing rules that would 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 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.

Note: the Industrial Commission is proposing rules that would require a person or organization alleging earned paid sick time retaliation, discrimination, or a violation of Arizona Revised Statutes § 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.

Who can file a lawsuit to enforce the Fair Wages and Healthy Families Act and when must it be filed?

A civil action to enforce the Fair Wages and Healthy Families Act (the “Act”) may be filed by a law enforcement officer (which means the attorney general, a city attorney, a county attorney, or a town attorney) or by any private party injured by a violation of the Act. The civil action must be filed no later than two years after a violation last occurs, or three years in the case of a willful violation. The civil action may include all violations that occurred as part of a continuing course of employer conduct regardless of the date of the violation.

Can an employer retaliate against an employee for asking questions about not being paid minimum wage or for asserting any rights under the Fair Wages and Healthy Families Act?

No. The Fair Wages and Healthy Families Act (the “Act”) prohibits an employer from discriminating or retaliating against an employee or other person for asserting any right under the Act. Additionally, if an employer takes an adverse action against an employee within 90 days of the employee asserting a right under the Act, retaliated against the employee will be presumed. This presumption can only be overcome if the employer shows by clear and convincing evidence that the action taken against the employee was for a permissible reason.

What is an “adverse action” within the meaning of the Fair Wages and Healthy Families Act?

The Fair Wages and Healthy Families Act (the “Act”) does not define “adverse action.” Absent additional legislative or judicial guidance, the Industrial Commission will defer to established case law when determining whether an employee has been subjected to an adverse action.

What can an employee do if an employer retaliates against the employee for asserting a right under the Fair Wages and Healthy Families Act?

An employee may file an administrative complaint with the Labor Department of the Industrial Commission or file a civil lawsuit.

What remedies are available to an employee for violations of Arizona’s minimum wage and earned paid sick time laws?

An employer who fails to pay minimum wage or earned paid sick time will be required to pay the employee the wages owed with interest and an additional amount equal to twice the underpaid wages.

An employer who retaliates against an employee is required to pay penalties sufficient to compensate the employee and deter future violations, but not less than \$150 for each day that the violation continued or until legal judgment is final.

The Commission and courts also have the authority to order other appropriate legal or equitable relief for violations of the Fair Wages and Healthy Families Act.

Will the Labor Department of the Industrial Commission keep an employer's payroll records confidential?

Payroll information provided to the Labor Department of the Industrial Commission will be kept confidential except as necessary to prosecute violations under the Fair Wages and Healthy Families Act.

Can an employee's identity be kept confidential after an administrative complaint is filed with the Labor Department of the Industrial Commission?

The Labor Department of the Industrial Commission will keep the name of an employee identified in an administrative complaint confidential for as long as possible. If the Industrial Commission determines that an employee's name must be disclosed in order to conduct a further investigation, it may do so only with the employee's consent.

What happens if an employer violates the Fair Wages and Healthy Families Act's recordkeeping, posting, or other requirements?

An employer who violates the Fair Wages and Healthy Families Act's recordkeeping, posting, or other requirements is subject to a civil penalty of at least \$250 for the first violation and at least \$1000 for each subsequent or willful violation. Special monitoring and inspections may also be imposed. Additionally, if an employer fails to maintain required records, it will be presumed that the employer did not pay the required minimum wage or earned paid sick time. An employer has the right to rebut this presumption with evidence that the employer paid the employee the required minimum wage.