



Maine's earned paid leave begins accruing Jan. 1, 2021

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Final [regulations](#) and [FAQs](#) on [Maine's earned paid leave](#) (MEPL) law clarify key provisions on coverage, eligibility, accrual, notice, pay rates and interaction with existing leave plans. The law (ME Rev. Stat. tit. 26, [§ 637](#)), enacted in 2019, allows Maine workers to accrue one hour of paid leave for every 40 worked, up to 40 total hours per year, to use for any reason after 120 days of employment. The measure applies starting Jan. 1, 2021, and preempts any similar local laws in the state.

Covered employers and employees

The law applies to employers with at least 10 covered employees for 120 days in a calendar year. Covered employees include full time, part-time and per diem workers covered by the state's unemployment insurance law (ME Rev. Stat. tit. 26, [§ 1043](#)), but not employees in a seasonal industry. Under the law, an individual is considered a Maine employee in the following situations:

- The employee's work is localized in Maine.
- The employee's work isn't localized in any one state but has a base of operations in Maine.
- The employee's services are directed or controlled in Maine, although no base of operations exists in any state.
- The employee resides in Maine but does not have a base of operations or receive direction or control over services from a place in any state.

Employees covered by another state's unemployment insurance law won't be considered Maine employees. In addition, employees subject to a collective bargaining agreement already in effect that addresses paid time off are exempt. New contracts negotiated after Jan. 1, 2021, must include MEPL as a benefit.

Seasonal industry

Employees working in a seasonal industry — typically one that operates only during a regularly recurring period or periods totaling fewer than 26 weeks in a calendar year — are exempt under the MEPL law. The Maine Unemployment Insurance Commission maintains a [list](#) of seasonal industries and their seasonal periods. The list includes hotels, resorts, camps and restaurants that regularly operate fewer than 26 weeks a year. Employers classified as seasonal businesses report seasonal workers' wages under a separate unemployment insurance account number.

Accruals

Employees accrue one hour of leave for every 40 hours worked beginning Jan. 1, 2021, or on the date of hire for new employees. Employers may cap accruals at 40 hours. Unused accruals generally must carry over from year to year. Employers that front-load at least 40 hours of leave at the start of the year or on the employee's anniversary date don't have to track accruals or allow carryovers.

Former employees who return to employment within one year must have any unused balance that wasn't paid out at termination reinstated. Employers with policies to pay out unused paid time off to departing employees must include a payment for accrued, unused time under the Maine law.

Use and notice

Employees can use accrued leave starting 120 calendar days after hire for any reason. The time employed prior to the Jan. 1, 2021, effective date counts toward an employee's 120-day waiting period. Employers must let employees take MEPL in as little as one-hour increments but may allow smaller increments. An employer can't require employees to use leave for the employer's own purpose, such as a business closing or cancelled shift.

Employers can require employees to give up to four weeks' notice of foreseeable leave and schedule the leave to prevent undue hardship to the business. Employees don't have to provide notice for emergency leave, but employers can require a medical note or other documentation if a leave lasts longer than three consecutive days.

Pay rate

Employees taking MEPL must receive their regular rate of pay earned immediately before the leave. This pay rate is the same used to calculate overtime and includes earnings, bonuses, commissions, and other compensation paid or due. Rates for per diem employees are determined by dividing their total earnings by hours worked in the most recent week. If an employee has varying pay rates during the week, such as a shift differential, the employee's total weekly earnings are divided by weekly hours worked. All employees must receive at least the minimum wage.

Job protections

Using MEPL can't result in the loss of any employee benefits accrued before the leave began. Employees taking MEPL retain the right to health insurance benefits on the same terms as similarly situated employees. Discipline for absenteeism can't apply if the employee complies with notice requirements and doesn't use more than the amount of leave accrued. This disciplinary restriction doesn't apply to any employer-provided leave that exceeds 40 hours per year.

Employers must conspicuously display a revised employment regulation [poster](#) at the worksite. Businesses with remote workers should also display the poster on the company's intranet.

Employer considerations

An employer's current leave program that provides at least 40 hours of paid leave to use for any purpose satisfies the Maine law. Employers should review the terms of existing paid leave programs to determine if additional action is needed. Businesses with part-time workers who don't qualify for the employer's existing paid leave program will have to decide whether to offer a separate program or fold part-time employees in the current plan.

Related resources

Non-Mercer resources

- [Earned paid leave FAQs](#) (Maine Department of Labor, Nov. 10, 2020)
- [Employment regulation poster](#) (Maine Department of Labor, Oct. 15, 2020)
- [Final regulations](#) (Maine Department of Labor, Sept. 14, 2020)
- [Maine's earned paid leave website](#)
- [ME Rev. Stat. tit. 26, § 637](#) (Maine Legislature)

Mercer Law & Policy resources

- [ME, NV accrued paid leave mandates expand state sick leave law totals](#) (July 1, 2019)

Other Mercer resources

- [Life, Absence & Disability](#)
- [The pressure is on to modernize time-off benefits: 6 survey findings](#) (Jan. 16, 2019)
- [Think globally, comply locally: How employers navigate leave laws](#) (Nov. 15, 2018)

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