

Insights

SUCCESSFUL MISSOURI BALLOT INITIATIVE UPS STATE MINIMUM WAGE AND IMPOSES NEW PAID LEAVE REQUIREMENTS

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SUMMARY

As 2024 election results roll in, Missouri employers should take note of two new employment requirements enacted via ballot initiative. Missouri voters passed the ballot initiative known as [Proposition A](#), which will increase the state's minimum wage and require private employers to provide employees with paid sick and safe leave ("PSSL"). Missouri joins Nebraska and Alaska, which passed similar ballot initiatives this fall, on the list of over twenty states where employees will be entitled to some form of earned PSSL. The leave requirements will be codified as RSMo 290.600-642, and the state minimum wage will appear in RSMo 290.502.

MINIMUM WAGE

Effective January 1, 2025, the minimum wage for Missouri employees will increase from \$12.30 per hour to \$13.75 per hour. The minimum wage will then increase to \$15.00 per hour on January 1, 2026. Starting in 2027, the minimum wage will continue to be adjusted on January 1 every year to reflect the changed cost of living identified by the Consumer Price Index for Urban Wage Earners and Clerical Workers or successor index published by the U.S. Department of Labor.

PAID LEAVE

Q: Which employers will be required to allow employees to accrue PSSL?

A: Private employers with one or more Missouri employees

The new PSSL statute applies only to private employers. It excludes the state, local government, and political subdivisions of the state including instrumentalities of the state and its localities such as local government, public schools and universities, and local or state commissions and boards.

Q: Which employees are eligible for paid sick and safe leave?

A: Most employees of private companies who work within Missouri

Employees entitled to accrue PSSSL under the new statute include anyone employed in the state of Missouri with a few notable exceptions. Exempt employees include certain charitable, religious, educational, or non-profit workers; youth camp or educational conference employees; employees of educational institutions receiving payment in the form of housing, tuition, or other fees; certain part time employees of private residence; babysitters; and employees of retail and service businesses with an annual gross volume of sales made or business done less than \$500,000.

Q: Under what circumstances will Missouri employees now be entitled to use PSSSL?

A: The employee's illness, a family member's illness, school or work closures due to a public health emergency, and domestic violence

In the wake of the global COVID-19 pandemic, this initiative provides for PSSSL due to school, daycare, and work closures caused by a public health crisis and sickness experienced by the employee or their family. The law also takes steps to increase protections for victims of domestic violence by guaranteeing leave related to seeking supportive or protective services.

PSSSL under these new provisions can be used to cover absences due to the following:

- When the employee experiences a physical or mental illness, injury, or health condition or requires diagnosis, treatment, or prevention of the same;
- To care for a family member experiencing a mental or physical illness or health condition or undergoing diagnosis, treatment, or prevention of the same;
- Closure of the employee's place of business or their child's school or place of care due to a public health emergency;
- When public health or medical professionals determine that the employee or their family member should quarantine to avoid spreading a communicable disease;
- To seek medical care, victim services, counseling, relocation, or legal services related to domestic violence, sexual assault, or stalking against the employee or the employee's family member.

Employees can request PSSSL in writing or verbally, so Missouri managers and HR professionals should be trained to recognize requests for this new kind of leave.

Employers are permitted to request reasonable documentation from employees whose use of PSSSL extends beyond three consecutive work days to confirm PSSSL is being appropriately used. However, employers should be cautioned that requesting documentation of employees' health and safety-related circumstances should be done in compliance with all state and federal laws, including the

new PSSSL law's prohibition on requiring disclosure of "details relating to an employee's or employee's family member's health information, domestic violence, sexual assault, or stalking" as a condition of providing PSSSL.

Q: Who counts as a family member?

A: Partners, dependents, immediate family, and others

The definition of "family member" includes the usual cast of characters seen in protected leave laws, such as parents, dependents, legal guardians, spouses, grandparents, grandchildren, and siblings. The list also expands to individuals with whom the employee is in a continuing romantic or intimate relationship, certain immediate family of the employee's spouse or domestic partner, and any other person for whom the employee is responsible for arranging health or safety-related care.

Q: How much PSSSL can employees earn, use, and carry over?

A: One hour of leave per 30 hours worked, use of up to 40 or 56 hours depending on employer size, and carry over up to 80 hours

Accrual cap:

Covered employers will be required to allow eligible employees to accrue a minimum of one hour of earned PSSSL for every thirty hours worked. The law is silent as to whether accrual can be capped, though the carryover requirement explained below suggests that employers must allow employees to accrue at least 80 hours of PSSSL per year (though this number would exceed expected accrual for an average full-time employee).

Use cap:

Employees of large employers (15 or more Missouri employees) are entitled to use up to 56 hours of PSSSL per year. Employees of small employers (fewer than 15 Missouri employees) are entitled to use up to 40 hours of leave. Employers may raise, but not lower, this cap on employees' use of leave.

Carryover cap:

Up to 80 hours of unused accrued sick time will be carried over each year. However, if an employer wishes to avoid this carryover, an employer may pay out whatever leave an employee would carry over (at their regular rate of pay) *and* provide them with a lump sum of PSSSL for the following year available for the employee's immediate use at the beginning of the next year. The amount of PSSSL an employer is required to provide in the lump sum option is an open question. The statute requires employers to provide a lump sum of PSSSL in an amount "that meets or exceeds the requirements" of the law. It is unclear whether employers would be required to provide a lump sum of PSSSL in the

amount an employee could use (40 or 56 hours depending on employer size) or estimate the amount the employee could accrue over the following year.

The Missouri Department of Labor and Industrial Relations is empowered by the PSSSL law to promulgate rules for the implementation, enforcement, and administration of the law. It remains to be seen whether the Department will issue rules or guidance regarding accrual caps and the payout + lump sum method to avoid the substantial PSSSL carryover requirements.

Q: When can employees start earning and using PSSSL?

A: May 1, 2025, can be used immediately as accrued

May 1, 2025, marks the date on which employees will begin accruing leave. Any employees hired after that date will begin accruing leave on the date their employment commences. Employees (including newly hired employees) are entitled to use PSSSL immediately upon accrual. There is no waiting period. Record-keeping specific to each employee will be essential to track accrued leave and comply with the new law.

Q: How does this affect collective bargaining agreements?

A: Any agreement that provides for less than the new required leave is void

While the new law allows employees to collectively bargain for greater rights than those conferred in the new leave law, any provision that waives employees' rights under the law (i.e., provides less than the minimum PSSSL required) is void. However, any collective bargaining agreements validly in effect on November 5, 2024, need not be renegotiated to incorporate the PSSSL requirements under the law until the agreement is renewed, extended, amended, or modified.

Q: What are the consequences of noncompliance?

A: Employers could be guilty of misdemeanors and civil actions by employees

Employers who willfully violate or fail to comply with the PSSSL law in Missouri will be guilty of a Class C misdemeanor punishable with up to 15 days in jail and \$700 in fines. Each day of the violation or failure to comply constitutes a separate offense, so jail time and fines can increase quickly. Willful violations of notice and posting requirements will result in more minor infractions.

Employees can also bring civil actions against their employers who fail to comply with the PSSSL requirements, and courts may grant injunctive relief and damages in the full amount of any unpaid earned PSSSL, any actual damages suffered, and liquidated damages equal to twice any unpaid earned PSSSL. The statute also provides for plaintiffs to recover costs, reasonable attorney's fees, and if applicable, reinstatement and backpay for violations of the anti-retaliation provision of this law.

Q: What should employers do before May 1, 2025?

A: Revisit your leave policy, update your accrual tracking, and prepare to distribute posters and notices

Starting on April 15, 2025, employers will be required to display a poster containing information regarding employees' entitlement to PSSSL and provide new and existing employees written notice of their rights under the PSSSL law. The Missouri Department of Labor and Industrial Relations is expected to release a poster and sample notice though employers should begin revisiting their policies and accrual tracking systems now to prepare.

Employers who have existing paid time off policies more generous than the requirements of the new PSSSL law are not required to provide additional leave, but it is crucial that employers strictly comply with the new accrual and carryover requirements for each employee. Note that the new law does not require employers to adopt a policy of paying out unused leave upon separation or termination of employment.

Private employers with any employees in Missouri should contact their BCLP employment & labor counsel to review their leave policies, record-keeping practices, accrual systems, and employment agreements to ensure compliance with these new requirements.

RELATED CAPABILITIES

- Employment & Labor

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