



# MARYLAND

## CHAMBER of COMMERCE

### MANDATED PAID LEAVE COMPARISON CHART

<b>HB 1/SB 230 – “Maryland Healthy Working Families Act” – As passed by the General Assembly and vetoed by the Governor</b>	<b>Paid Leave Compromise Act of 2018</b>
<p><b>3-1301 (G)</b> “Family Member” means:</p> <ul style="list-style-type: none"> <li>(1) A biological child, an adopted child, a foster child, or a stepchild of the employee;</li> <li>(2) A child for whom the employee has legal or physical custody or guardianship;</li> <li>(3) A child for whom the employee stands in loco parentis, regardless of the child’s age;</li> <li>(4) A biological parent, an adoptive parent, a foster parent, or a stepparent of the employee or of the employee’s spouse;</li> <li>(5) The legal guardian of the employee;</li> <li>(6) An individual who acted as a parent or stood in loco parentis to the employee or the employee’s spouse when the employee or the employee’s spouse was a minor;</li> <li>(7) The spouse of the employee</li> <li>(8) A biological grandparent, an adopted grandparent, a foster grandparent, or a stepgrandparent of the employee;</li> <li>(9) A biological grandchild, an adopted grandchild, a foster grandchild, or a stepchild of the employee; or (10) A biological sibling, an adopted sibling, a foster sibling or a stepsibling of the employee; or</li> <li>(10) A biological grandchild, an adopted grandchild, a foster grandchild, or a stepgrandchild of the employee.</li> </ul>	<p><b>3-1301 (G)</b> is struck</p> <p><b>3-1301 (D)</b> “Paid Time Off” means paid leave away from work that: <b>(1)</b> may be used by an employee for any reason</p>
<p><b>3-1302(C)</b> For the purpose of subsection (B)(2) of this section, the terms and conditions of a paid leave policy shall be presumed to be equivalent if the terms and conditions allow an employee to: (1) Access and accrue paid leave at the same rate or at a greater rate than provided for in § 3-1304 of this subtitle; and (2) Use the paid leave for the purposes listed in § 3-1305 of this subtitle.</p>	<p><b>3-1302 (C)</b> An employer with an existing paid leave policy that provides an amount of paid leave meeting the total annual accrual requirements provided for in § 3-1304 of this subtitle and allows an employee to use the paid leave for any reason shall be exempt from all other requirements of this subtitle.</p>
<p><b>3-1302</b> [Only Pre-Emption for new local legislation; Montgomery County exempt]</p>	<p><b>3-1302 (E)</b> This subtitle preempts the authority of a local jurisdiction to enact a law that regulates Paid Time Off.</p>
<p><b>3-1303 (A)</b> This subtitle does not apply to an employee who:</p> <p><b>(3) (I)</b> Is called to work by the employer on an as-needed basis in a health or human services industry; <b>(II)</b> can reject or accept the shift offered by the employer; <b>(III)</b> Is not guaranteed to be called on to work by the employer; and <b>(IV)</b> is not employed by a temporary staffing agency</p>	<p><b>3-1303(A)</b> This subtitle does not apply to an employee who <b>(1)</b> has been employed by the employer for less than 120 days during a 12-month period <b>(2)</b> is employed in the construction industry, as classified by code under the North American Industry Classification System; <b>(3)</b> Is covered under the Federal Railroad Unemployment Insurance Act; or <b>(4)</b> is covered by a bona fide collective bargaining agreement.</p>

<p><b>3-1303 (A) (1)</b> This subtitle does not apply to an employee who: <b>(1)</b> Regularly works less than 12 hours a week for an employer</p>	<p><b>3-1303(A)(1)</b> was struck</p>
<p><b>3-1304(A)(1)</b> An employer that employs 15 or more employees shall provide an employee with earned sick and safe leave that is <b>paid</b> at the same rate as the employee normally earns <b>(2)</b> An employer that employs 14 or fewer employees shall provide an employee with <b>unpaid</b> earned sick and safe leave.</p>	<p><b>3-1304(A)(1)(i)</b> Subject to subparagraph (II) of this paragraph, an employer shall provide an employee with Paid Time Off that is paid at the same wage rate as the employee normally earns if: <b>(A)</b> In 2018, the employer employed 50 or more employees; <b>(B)</b> In 2019, the employer employs 40 or more employees; <b>(C)</b> In 2020 and each year thereafter, the employer employs 25 or more employees.</p>
<p><b>3-1304 (C)(1)</b> Earn more than <u>40 hours</u> of earned sick and safe leave in a year</p>	<p><b>3-1304 (C)(1)</b> kept the same</p>
<p><b>3-1304(C)(4)</b> Use earned sick and safe leave during the first <u>106 calendar days</u> the employee works for the employer</p> <p><b>3-1305 (G) (1)</b> An employer may require an employee who used earned sick and safe leave to provide verification that the leave was used appropriately under subsection (A) of this section if: <b>(I)</b> the leave was used for more than two consecutive scheduled shifts; or <b>(II) (1)</b> The employee used the leave during the period between the first 107 and 120 calendar days, both inclusive, that the employee was employed by the employer; and <b>(2)</b> The employee agreed to provide verification under terms mutually agreed to by the employer and the employee at the time the employee was hired by the employer.</p>	<p><b>3-1304(C)(4)</b> Use Paid Time Office during the first <u>120 calendar days</u> the employee works for the employer</p> <p><b>3-1305 (G) (1)</b> was struck</p>
<p><b>3-1304 (G) (1)</b> Subject to paragraphs (2) and (3) of this subsection, if an employee has unused earned sick and safe leave at the end of the year, the employee may carry over the balance of the earned sick and safe leave to the following year.</p>	<p><b>3-1304(G)(2)</b> An employer may not be required to allow an employee to carry over more than 40 hours of Paid Time Off under paragraph (1) of this subsection. <b>(3)</b> An employer may not be required to allow an employee to carry over unused Paid Time Off under paragraph (1) of this subsection if: <b>(i)</b> the employer awards the employee the full amount of Paid Time Off at the beginning of each year under subsection (d) of this section; or <b>(ii)</b> the employee is employed by a nonprofit entity or a governmental unit in accordance with a grant, the duration of which is limited to 1 year and is not subject to renewal.</p>
<p><b>3-1304 (c)(5)</b> [an employer may not be required to allow an employee to] Accrue earned sick and safe leave during a <b>(I)</b> 2-week pay period in which the employee worked fewer than 24 hours total; <b>(II)</b> 1-week pay period if the employee worked fewer than a combined total of 24 hours in the current and the immediately preceding pay period; or <b>(III)</b> pay period in which <b>(1)</b> The employee is paid twice a month regardless of the number of weeks in a pay period; and <b>(2)</b> The employee worked fewer than 26 hours in the pay period</p>	<p>These sections were struck</p>
<p><b>3-1305 (D) (2) (I)</b> This paragraph applies only to an employee employed in the restaurant industry who is compensated as a tipped employee under § 3-419 of this title and who would be entitled to paid leave under § 3-1304 of this subtitle if the employee: <b>(1)</b> Needs to take earned sick and safe leave; <b>(2)</b> prefers and is able to work additional hours or trade shifts with</p>	<p><b>3-1305(D)</b> was struck</p>

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<p>another employee in the same pay period or the following paid period; and <b>(3)</b> Requires the employer to arrange coverage of the shift. <b>(II)</b> if the employer is contacted to arrange the coverage of a shift under subparagraph (I) of this paragraph, the employer shall have the discretion to offer the employee a choice of: <b>(1)</b> Being paid the minimum wage required under § 3-413 of this title for the employee's absence; or <b>(2)</b> working an equivalent shift of the same number of hours in the same pay period or the following pay period. <b>(III)</b> An employer that does not offer the tipped employee the choice under subparagraph (II) of this paragraph, the employer shall have the discretion to offer the employee a choice of: 1. Being paid the minimum wage required under § 3-413 of this title for the employee's absence; or 2. Working an equivalent shift of the same number of hours in the same pay period or the following pay period. <b>(III)</b> an employer that does not offer the tipped employee the choice under subparagraph (II) of this paragraph shall pay to the employee the minimum wage required under § 3-413 of this title for the use of the earned sick and safe leave. <b>(IV)</b> an employer may deduct an absence taken under this paragraph from the employee's accrued earned sick and safe leave. <b>(3)</b> An employer is not required to consent to an employee's request to work additional hours or trade shifts if the additional hours or trade in shifts would result in the employer being required to pay overtime to the employee.</p>	<p><b>3-1304(A)(ii)</b> An employer may not be required to pay a tipped employee more than the applicable minimum wage for Paid Time Off.</p>
<p><b>3-1307 (C) (1)</b> An employer that fails to keep accurate records or refuses to allow the Commissioner to inspect a record kept under subsection (a) of this section creates a rebuttable presumption that the employer violated this subtitle. <b>(2)</b> The Commissioner may waive a civil penalty assessed under this subtitle if the penalty was assessed for a violation that was due to an error caused by a third-party payroll service provider with whom the employer in good faith contracted for services.</p>	<p><b>3-1307(C)(1)</b> was struck; <b>3-1307(C)(2)</b> was kept</p>
<p><b>3-1308 (C)(3)</b> If an employee prevails in an action brought under paragraph (2)(II) of this subsection to enforce an order, the court <u>may</u> award:</p> <p>(II) Punitive Damages in an amount to be determined by the Court  (V) Any other relief that the Court deems appropriate</p>	<p><b>3-1308(C)</b> If the Commissioner determines that an employer has violated this section, the Commissioner shall: <b>(1)</b> Issue an order compelling compliance with this section; and <b>(2)</b> in the Commissioner's discretion, assess a civil penalty of: <b>(I)</b> Up to \$300 for each employee for whom the employer is not in compliance with this section; or <b>(II)</b> Up to \$600 for each employee for whom the employer is not in compliance with this section if the violation occurred within 3 years after an employee filed a previous complaint that led to a determination that a violation had occurred.</p>