



Prop 206 Minimum Wage and Sick  
Leave Regulation

Hosted by:



# Arizona Proposition 206



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Fighting for Your Dollars' Best Interest

# Arizona Proposition 206



- Proposition 206 consists of **two components**
  1. Minimum Wage Increase
  2. Paid Sick Time Requirement



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# Minimum Wage Increase



- Will be in effect **January 1, 2017**
  - **\$10.00/hr— January 1, 2017**
  - **\$10.50/hr—January 1, 2018**
  - **\$11.00/hr—January 1, 2019**
  - **\$12.00/hr--January 1, 2020**
- After 2020, Arizona's minimum wage will increase in the cost of living
- Note, Restaurants allowed a \$3.00/hr differential for tipped employees (i.e. January 1, 2017 \$7.00/hr)

# Paid Sick Time Requirement (PST)



- Effective: July 1, 2017
- Who is covered?
  - Virtually every private employer with employees in Arizona.
  - Small Business exemption: Less than \$500,000 gross revenues and not be engaged in interstate commerce or in the production of goods for interstate commerce.
  - No distinction for full time employee's vs. part-time



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# PST (cont.)



- **Accrual Rate**

- Employers > 15 employees must permit employees to accrue up to 40 hours of Paid Sick Time
- Employers < 15 employees must permit employees to accrue up to 24 hours of Paid Sick Time



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# Summary of Arizona's Proposition 206: Minimum Wage Hike & Paid Sick Leave

Prepared For:



**Gilbert Chamber of Commerce and  
Arizona Chamber of Commerce and Industry**

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# Arizona Minimum Wage

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1. Arizona minimum wage was \$8.05 in 2016.
2. Arizona minimum wage for tipped employees is \$3.00/hour less than standard minimum wage.
3. The federal minimum wage will remain at \$7.25 in 2016.
4. The federal minimum wage has been \$7.25 since 2009.
5. In November 2016, Arizona voters passed Proposition 206, increasing the Arizona minimum wage and requiring employers to provide paid sick leave.



# Arizona Minimum Wage

1. Prop 206 contains the following minimum wage increases:
  - a. January 1, 2017 - \$10.00/hour
  - b. January 1, 2018 - \$10.50/hour
  - c. January 1, 2019 - \$11.00/hour
  - d. January 1, 2020 - \$12.000/hour
  - e. January 1, 2021 and subsequent - increase for cost of living

# Prop 206 Paid Sick Time: Accrual

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1. Goes into effect July 1, 2017.
2. All employees, including part-time or temporary employees, are entitled to accrue paid sick time at the rate of 1 hour for every 30 hours worked.
  - a. Company with 15 or more employees – cap at 40 hours sick leave per year
  - b. Company with fewer than 15 employees – cap at 24 hours sick leave per year
  - c. Employer can define the 12-month period for accrual and use of sick leave
  - d. Exempt employees presumed to work 40 hours

# Prop 206 Paid Sick Time: Accrual

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1. In lieu of accrual method, employers can provide a paid sick leave bank of
  - a) 40 hours
  - b) (24 for small employers under 15 employees) at the beginning of the year.
2. Employers who have paid time off policy that provides benefits at least as great as the paid sick time required in Prop 206 are not required to have a separate policy.

# Prop 206 Paid Sick Time: Accrual

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1. Employees begin accruing sick leave on date of hire, but employer can have policy requiring employee to be employed for 90 days prior to using sick leave.
2. Sick leave rolls over year to year, subject to the usage cap (usage can be limited to 40 hours, but the law is not clear whether total leave bank is limited).
3. Unused sick leave does not have to be paid out upon separation of employment, but must be reinstated if employee is rehired within 9 months.

# Paid Sick Time: Qualifying Uses

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1. Employees can use sick leave for themselves or a family member for:
  - a. Physical or mental illness or injury (including diagnosis and treatment)
  - b. Preventive care;
  - c. If place of business or child care is closed due to order of a public health official;
  - d. Employee or family member is required to stay home by order of a public health official because of exposure to communicable disease;
  - e. Matters relating to domestic violence, sexual violence, abuse, or stalking, such as medical care, counseling services, legal services, relocation to secure location, securing current home, etc.

# Paid Sick Time: Family Members

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1. Family Member is broadly defined:
  - a. children, regardless of age, including biological, adopted, step-, or foster child, children of domestic partners, or anyone for whom the person stood in loco parentis
  - b. the employee's or employee's spouses or domestic partner's parents (including biological, adopted, step-, foster, or person who stood in loco parentis);
  - c. the employee's legal spouse or registered domestic partner (may be registered under any state or local law of any region);
  - d. A grandparent, grandchild, or sibling of the employee, the employee's spouse, or the employee's domestic partner (again including biological, adopted, step-foster, etc.)
  - e. "Any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship."

# Paid Sick Time: Documentation

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1. Information relating to leave must be treated as confidential.
2. Employer may request documentation relating to the leave if the employee is absent for three or more consecutive days.
  - a. A statement from a health care provider that leave was necessary is sufficient and employer cannot inquire regarding details of illness.
  - b. For leave related to domestic abuse, sexual violence, etc. employer must accept a police report, restraining order, statement from counselor, statement from attorney, or similar document or the employee's own written statement affirming that they or a family member is a victim of domestic violence, sexual violence, assault, or stalking and cannot ask for details

# Paid Sick Time: Notices

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1. Industrial Commission of Arizona is creating form notice that must be provided to employees to notify them of their rights under the new law.
2. Employee paychecks or a statement sent with the paycheck must inform employees of:
  - a) how much leave they have accrued,
  - b) how much they have used (and the pay therefore), and
  - c) how many hours are available.



# Paid Sick Time: Retaliation

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1. Retaliation for use of sick leave is prohibited.
2. Employers cannot use paid sick time absences for discipline or termination.
3. Retaliation is prohibited for:
  - a) Exercising rights;
  - b) Making a complaint;
  - c) Supporting another's complaint.

# Employers Should Review Their Current Leave Policies

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1. Work with legal counsel to draft a complaint leave policy to implement by July 1, 2017.
2. Review their timekeeping and record keeping systems.
3. Track hours worked and sick leave accrual.
4. Print on employee pay stubs the sick leave accrued, sick leave used, and sick leave available.

# David A. Selden

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**DAVID A. SELDEN** is a partner with The Cavanagh Law Firm in Phoenix, Arizona. Mr. Selden's practice is concentrated in representing management in a wide variety of employment law matters, including immigration compliance, discrimination, wrongful discharge, workplace torts, OSHA, EEOC, ACRD, DOL, NLRB, ICE, OSC, DOT, collective bargaining, and other employment litigation. Mr. Selden has been interviewed by and quoted in numerous publications on immigration and employment law, including *the Wall Street Journal*, *Business Week*, *The New York Times*, *CNN*, *MSNBC*, *Fox News*, *Associated Press*, *Chicago Tribune*, *Denver Post*, and numerous Arizona publications. He has served as the Chair or Co-Chair of the Employment Committee of the Arizona Chamber of Commerce and Industry for 25 years, representing the interests of Arizona employers before the Arizona Legislature on immigration and employment issues. He drafted most of the employment laws enacted in Arizona during the past 20 years, including the landmark 1996 Arizona Employment Protection Act. He is Legislative Director of the AZ SHRM State Council. He has been Co-Editor-in-Chief of three books on immigration and employment law – *Employment Verification: An Employer's Guide to Immigration, Form I-9 and E-Verify*; *Arizona Human Resources Manual*; and *Model Policies and Forms for Arizona Employers*, all published by American Chamber of Commerce HR Compliance Library. He has been listed in The Best Lawyers in America and has been listed in every edition of Chambers USA: America's Leading Lawyers for Business. Mr. Selden is also a Fellow of the Litigation Counsel of America.

Mr. Selden also serves on the Board of Directors of the Phoenix Symphony and Arizona Chamber of Commerce and Industry and has served as General Counsel to both organizations. He has been an Adjunct Professor of Law, teaching courses in Employment Law and Employment Discrimination Law. He is a frequent speaker before professional groups. Mr. Selden received his J.D. degree, magna cum laude, from Georgetown University Law Center, where he was also an editor of *The Tax Lawyer*. He received his B.A. and M.A. degrees from George Washington University in Washington, D.C. Mr. Selden may be reached at (602) 322-4009 or dselden@cavanaghlaw.com.

# Julie A. Pace

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**JULIE A. PACE** is a partner in the Phoenix office of The Cavanagh Law Firm PA. Ms. Pace's practice is concentrated in representing companies in immigration compliance, commercial litigation, construction, and employment law, with particular emphasis in the defense of sexual harassment, employment discrimination, wrongful discharge suits, EEOC and ACRD charges, matters involving OSHA, ICE, OFCCP, DOL, DOT, NLRB, ADA, FMLA, ERISA, I-9s, E-Verify, Davis-Bacon, wage and hour laws, conducting sexual harassment investigations, and providing training to managers and employees. She also counsels employers on noncompete contracts, confidentiality agreements, employee discipline, drug testing, accommodation of disabled individuals, safety policies, affirmative action plans, wage conformance and wage determinations, and other related human resource policies and procedures.

Ms. Pace also handles issues involving the Affordable Health Care Act and addresses the changes and options it presents to companies. Her Davis-Bacon and prevailing wage practice includes counseling and training on state and federal prevailing wages and benefits requirements, coverage and applicability of prevailing wage laws, coverage exemptions, worker classification and pay issues, addressing wage determinations, wage surveys, and representation of employers before the Department of Labor Wage and Hour Division and similar state agencies.

Ms. Pace has been described by *Arizona Business Magazine* as the "go to" lawyer in Arizona for businesses on immigration issues. She has handled hundreds of I-9 audits, addresses E-Verify issues, and has provided I-9 and immigration compliance training for thousands of supervisors. She has chaired the Immigration Committee of the Arizona Chamber of Commerce and Industry.

For over the past two decades, Ms. Pace has regularly represented companies in OSHA proceedings. She has been working on fall protection issues since the fall protection standard went into effect in 1995. She has handled hundreds of OSHA matters and numerous fatalities in the workplace.

She received her J.D. degree, *cum laude*, from Arizona State University, where she was also Symposium and Articles Editor of the *Arizona State Law Journal*. She received her B.S. degree in Business Administration, *magna cum laude*, from Arizona State University. Ms. Pace can be reached at 602.322.4046 or [jp pace@cavanaghlaw.com](mailto:jp pace@cavanaghlaw.com).