

# No Vacation From Vacation Pay in Vacationland: Beware, Maine Employers!

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In spite of significant opposition from Maine's business community, including the Maine State Chamber of Commerce and leaders in the tourism, hospitality, and small business communities, Governor Janet Mills signed into law Legislative Document (L.D.) 225, "[An Act Regarding the Treatment of Vacation Time upon the Cessation of Employment](#)" on April 7, 2022. The law amends 26 M.R.S.A. § 626 to require each employer with more than ten employees to pay its employees, on the cessation of employment, "[a]ll unused paid vacation accrued pursuant to the employer's vacation policy on and after January 1, 2023."

Aside from creating notable financial burdens for businesses across the state, L.D. 225 appears to conflict with Maine's [Earned Paid Leave law](#) and is already creating considerable confusion for Maine's business community.

The newly enacted law does not provide a clear definition of what leave it covers, aside from "unused paid vacation accrued pursuant to the employer's vacation policy." According to written testimony provided to the Maine Legislature by the Maine State Chamber of Commerce, Maine Department of Labor, and HospitalityMaine, a number of Maine's larger employers are working to clarify their paid time off (PTO) programs and shifting away from flexible PTO, which benefits employers and employees alike, to separate sick leave and vacation leave policies. Other employers are revising their policies to provide for "earned leave" or "personal time." The new law's provisions also fail to address employers' ability to set annual caps on carryover of unused paid leave.

Under L.D. 225, employers with "vacation policies" would appear to be required to pay unused, accrued vacation pay to employees discharged for misconduct, including theft, assault, or other violations of workplace policies.

With the enactment of L.D. 225, Maine's new vacation pay law, Maine becomes one of only a handful of states, including [California](#), [Colorado](#), and Massachusetts, mandating the payment of unused, accrued vacation upon an employee's separation from employment. Since the passage of Maine's Earned Paid Leave law, the Maine Department of Labor reports having fielded a significantly increased number of inquiries from employers and employees on the topic of paid leave, and it expects this number to increase exponentially with the enactment of Maine's vacation pay law.

Ogletree Deakins' [Portland office](#) will continue to monitor developments with respect to Maine's vacation pay law and will post updates on the firm's [Maine blog](#) as additional information becomes available. Important information for employers is also available via the firm's [webinar](#) and [podcast](#) programs.