



Minnesota Earned Sick and Safe Time

Effective Jan. 1, 2024, nearly all Minnesota employers are required to provide their workers with paid earned sick and safe time (ESST).

Highlights of the [law](#) include the following:

- Employees are eligible if they work at least 80 hours in a year in Minnesota;
- Leave accrues at a rate of one hour of ESST for every 30 hours worked, up to a maximum of 48 hours per year;
- Employers that front-load ESST can avoid carryover requirements;
- ESST may be used for reasons related to sexual assault, stalking, public emergencies and public health, in addition to health reasons;
- “Family member” is defined broadly and includes those with the equivalent of a family relationship;
- Employers must comply with notice and recordkeeping requirements; and
- Nonretaliation provisions apply.

The Minnesota Department of Labor and Industry (DLI) has answers to frequently asked questions and other materials about the law available on its [website](#).

Covered Employers

Employers with at least one employee covered by the law. It applies to employee leasing agencies and professional employer organizations if they are the taxpaying employer under state law, and to staffing agencies that supply temporary employees (unless a contract states otherwise).

The state, counties, towns, cities, school districts and other governmental subdivisions are covered.

Employers with a paid time off or other paid leave policy that may be used for the same purposes and under the same conditions as ESST, and that provides at least as much leave as the ESST law, are not required to provide additional earned sick and safe time.

Eligible Employees

Employees, including part-time and temporary employees, are eligible for ESST if they work at least 80 hours in a year in Minnesota for their employer.

The law does not cover airline flight deck and cabin crew members who:

- Are subject to United States Code Title 45, Sections 181 to 188;
- Work less than a majority of their hours in Minnesota in a calendar year; and

- Are provided with paid leave equal to or exceeding the amounts required by the ESST law.

Certain building and construction trade collective bargaining agreements may waive the application of the ESST law.

Accrual and Carryover

Beginning at the start of employment, employees accrue one hour of ESST for every 30 hours worked, up to a maximum of 48 hours per year (unless the employer agrees to a higher amount). “Year” means a regular and consecutive 12-month period, as determined by the employer and clearly communicated to employees. Employers may advance ESST before it accrues.

Unused, accrued ESST carries over into the following year. The law specifies that the total amount of accrued but unused earned sick and safe time for an employee must not exceed 80 hours at any time unless an employer agrees to a higher amount.

Overtime-exempt employees are deemed to work 40 hours in each workweek for purposes of accruing ESST. Employees whose normal workweek is less than 40 hours will accrue the leave based on the normal workweek.

Employers are not required to pay out any unused accrued ESST on separation of employment.

Front-loading

Employers that front-load ESST at the beginning of the year are exempt from the carryover requirement. Employers that pay out unused, accrued ESST at the end of the year must front-load 48 hours. If there is no payout, however, the employer must front-load 80 hours to avoid carryover.

Use of ESST

Employees may use ESST when it accrues, for specific purposes related to the worker’s or a family member’s well-being, including purposes arising from domestic abuse, sexual assault or stalking. ESST may also be taken for certain public emergency and public health reasons.

Specifically, employees may use ESST for the reasons in the chart below.

1	Their own or their family member’s mental or physical illness, injury or other health condition; need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; or need for preventive medical or health care.
2	Absence due to domestic abuse, sexual assault or stalking of the employee or employee’s family member, provided the absence is to: <ul style="list-style-type: none"> • Seek medical attention related to physical or psychological injury or disability; • Obtain services from a victim services organization; • Obtain psychological or other counseling; • Seek relocation or take steps to secure an existing home; or

	<ul style="list-style-type: none"> • Seek legal advice or take legal action, including preparing for or participating in any civil or criminal legal proceeding.
3	Closure of the employee's place of business due to weather or another public emergency, or an employee's need to care for a family member whose school or place of care has been closed due to weather or another public emergency.
4	<p>The employee's inability to work or telework because the employee is:</p> <ul style="list-style-type: none"> • Prohibited from working by the employer due to health concerns related to the transmission of a communicable illness related to a public emergency; or • Seeking or awaiting the results of a diagnostic test for or a medical diagnosis of a communicable disease related to a public emergency when the employee has been exposed to a communicable disease or the employer has requested a test or diagnosis.
5	The determination by a health authority or health care professional that the presence of the employee or their family member in the community would jeopardize the health of others because of exposure to a communicable disease.

"Family member" is defined broadly to include an employee's:

1. Child, foster child, adult child, legal ward, child for whom the employee is legal guardian, or child to whom the employee stands or stood in loco parentis;
2. Spouse or registered domestic partner;
3. Sibling, stepsibling or foster sibling;
4. Biological parent, adoptive or foster parent, stepparent or person who stood in loco parentis when the employee was a minor child;
5. Grandchild, foster grandchild or step-grandchild;
6. Grandparent or step-grandparent;
7. A child of a sibling of the employee;
8. A sibling of the parents of the employee; or
9. A child-in-law or sibling-in-law.

In addition, "family member" includes any of the family members listed in items 1-9 above of a spouse or registered domestic partner, as well as any other individual related by blood or whose close association with the employee is the equivalent of a family relationship.

Finally, up to one individual annually designated by the employee may be considered a family member for ESST purposes.

Notice Obligations of Employees

Employers may require advance notice of no more than seven days for foreseeable use of ESST. If the need for ESST use is unforeseeable, employees may be required to give notice only as soon as practicable.

Note that employers requiring advance notice of ESST use must provide employees with written, reasonable procedures on how to provide the notice. If the written policy has not been provided to an employee, they may not be denied the leave on that basis.

Documentation

Employers may require documentation from employees that ESST of more than three consecutive days was used for a qualified reason. The type of documentation that may be requested varies depending on the reason for leave.

Qualifying Reason for Leave	Reasonable Documentation
Health needs of the employee or the employee’s family member	Signed statement by a health care professional indicating the need for ESST
Health needs of the employee or the employee’s family member, but: <ul style="list-style-type: none"> • No services were received from a health care professional; or • Documentation cannot be obtained from a health care professional in a reasonable time or without added expense 	Written statement from the employee indicating their ESST use was for a qualifying purpose
Safe leave related to domestic abuse, sexual assault or stalking of the employee or their family member	Court record or document signed by a volunteer or employee of a victims’ services organization, an attorney, a police officer or an anti-violence counselor
Care for a family member whose school or place of care has been closed due to a public emergency	Employee’s own written statement indicating the ESST was for a qualifying purpose

Employers may not require details relating to domestic abuse, sexual assault, stalking, or an employee's or employee's family member's medical condition. Written statements by an employee may be written in the employee's first language and need not be notarized or in any particular format.

Notice Obligations of Employers

Employers must give notice to all employees that they are entitled to earned sick and safe time. This includes notice of:

- The amount of ESST;
- The accrual year for the employee;
- The terms of ESST use;
- A copy of any written policy the employer maintains for providing notice of the need to use ESST;
- Prohibition of retaliation against employees who request or use ESST and
- Each employee's right to file a complaint or bring a civil action if ESST is denied by the employer or if the employee is retaliated against for requesting or using earned sick and safe time.

Employers must supply employees with the notice in English and the primary language of the employee (as identified by the employee) at the start of employment or the effective date of the ESST law, whichever is later.

Notice Method

In providing the required notice, employers must use a method that is at least as effective as the following options:

1. Posting a copy of the notice at each location where employees perform work and where the notice must be readily observed and easily reviewed by all employees performing work;
2. Providing a paper or electronic copy of the notice to employees; or
3. A conspicuous posting in a web-based or app-based platform through which an employee performs work.

In addition, any employee handbooks that are provided to employees must include the required notice of employee rights and remedies under the ESST law.

DLI has prepared a uniform [employee notice](#) for employers to use to meet their notice obligations. On the written request of a covered employer, DLI must provide a copy of the notice in any primary language spoken by an employee in the employer's place of business. If DLI fails to do so, the employer making the request is not subject to a penalty for failing to provide the required notice.

Recordkeeping

Employers must keep accurate records of all hours worked and ESST taken by employees, and they must include employees' accrued and used ESST in the earnings statements they are required to provide workers under state law. Records and information about employees' ESST use must be kept confidential.

Employee Protections and Enforcement

Employers are prohibited from discharging, disciplining, penalizing, interfering with, threatening, restraining, coercing, or otherwise retaliating or discriminating against a person for exercising or attempting to exercise rights under the ESST law. This includes taking action against the worker for requesting or using ESST, requesting a statement of accrued ESST, informing any person of their potential rights under the ESST law, making a complaint or filing an action to enforce a right to ESST, or participating in an ESST investigation, proceeding or hearing.

Furthermore, the law bars employers from allowing ESST use to count against employees as part of an absence control policy or attendance point system.

The statute also makes it unlawful to report or threaten to report the citizenship or immigration status of a person or their family member to a federal, state or local agency for exercising or attempting to exercise their right to ESST.

Employer violations of the ESST law can result in administrative orders for back pay, gratuities, and compensatory and liquidated damages. Repeated or willful violations are subject to civil penalties of up to \$10,000 each. Aggrieved employees may also file civil lawsuits against their employers.

More Information

Contact Armbruster Executive & Employee Benefits, Inc. for more information on employee leave laws in Minnesota.