



HR-Alert: Minnesota Earned Sick and Safe Time Takes Effect January 1, 2024

Effective January 1, 2024, the state of Minnesota will require employers to provide paid Earned Sick and Safe Time (ESST) to eligible employees. Employers in Bloomington, Duluth, Minneapolis, and St. Paul will continue to be subject to existing sick and safe time ordinances but must comply with the more generous ordinance.

Quick Facts

- Eligible employees include full-time, part-time, and temporary employees, if they work at least 80 hours in Minnesota a year
- Employees may request ESST for the following reasons:
 - The employee's mental or physical illness, treatment or preventive care
 - A family member's mental or physical illness, treatment or preventive care
 - Absence due to domestic abuse, sexual assault or stalking of the employee or a family member
 - Closure of the employee's workplace due to weather or public emergency or closure of a family member's school or care facility due to weather or public emergency and
 - When determined by a health authority or health care professional that the employee or a family member is at risk of infecting others with a communicable disease.
- The Minnesota Department of Labor has outlined three ways to structure an ESST policy:
 - **Accrual**
 - Employees must accrue at least one hour of ESST for every 30 hours worked up to at least 48 hours per year
 - Employees must be able to carry over all accrued but unused ESST into the following year
 - Employers may implement a maximum balance of 80 hours
 - **Front loading with pay out and no carry over**
 - Employees must be provided a minimum of 48 hours for immediate use
 - ESST must be paid out at the end of the year
 - **Front loading with no pay out and no carry over**
 - Employees must be provided a minimum of 80 hours for immediate use
 - No carry over provision required
- Employers may set a minimum usage increment not to exceed four hours
- Employers must pay employees at their regular rate or salary for each hour of ESST taken
- If an employer already offers a paid leave benefit that meets the minimum requirements of ESST, they do not have to offer additional time, (e.g., PTO (Paid Time Off) or paid vacation)

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- ESST is not required to be paid upon separation unless an employer chooses to combine leave into their PTO or vacation policy. In that case, vacation payout obligations would need to be considered under state law. Employers will be required to restore any accrued but unused ESST for employees returning within 180-days of separating

Notice Requirements

Employers may require up to seven calendar days' notice for foreseeable events. For unforeseeable events, employees must provide notice as soon as practical. Employers may not request documentation unless an employee has been out for more than three consecutive days. Employers that require notice of leave must specify this in their written policy, outlining reasonable procedures for employees to provide notice of the need to use ESST. Most notably, employers may not require an employee to find a replacement worker to cover any hours the employees will be out for ESST.

At the end of each pay period, employers will be required to provide notice to employees of their total accrued and available ESST and total ESST used during that pay period. Employers will be required to post a notice in a conspicuous place in their workplace.

Employer Next Steps

- Minnesota employers should review their existing policies to ensure compliance with this ordinance before its effective date of January 1, 2024
- Employers should continue to monitor [Minnesota's DLI website](#) and post the Minnesota Earned Sick and Safe Time poster once available
- Employers may review Minnesota's [Earned Sick and Safe Time FAQ](#)
- The Minnesota Department of Labor and Industry is in the process of preparing additional guidance and other resources and materials to assist employers with compliance

If you have any questions regarding this HR-Alert, please [email us](#).