

EARNED SICK AND SAFE TIME



Effective Jan. 1, 2024, Minnesota's earned sick and safe time law requires employers to provide paid leave to employees who work in the state. [Minnesota's current sick and safe leave law](#) remains in effect until Dec. 31, 2023 and will be replaced by the new earned sick and safe time law on Jan. 1, 2024.

- [View FAQs about earned sick and safe time.](#)

CALL US

EMAIL US

What is sick and safe time?

Sick and safe time is paid leave employers must provide to employees in Minnesota that can be used for certain reasons, including when an employee is sick, to care for a sick family member or to seek assistance if an employee or their family member has experienced domestic abuse.

MINNESOTA PAID FAMILY AND MEDICAL LEAVE

Who is eligible for sick and safe time?

- includes subs, coaches, etc

An employee is eligible for sick and safe time if they:

- work at least 80 hours in a year for an employer in Minnesota; and
- are not an independent contractor.

Temporary and part-time employees are eligible for sick and safe time. Sick and safe time requirements will not apply to building and construction industry employees who are represented by a building and construction trades labor organization if a valid waiver of these requirements is provided in a collective bargaining agreement.

How much sick and safe time can employees earn?

An employee earns one hour of sick and safe time for every 30 hours worked and can earn a maximum of 48 hours each year unless the employer agrees to a higher amount.

At what rate must sick and safe time be paid?

Sick and safe time must be paid at the same hourly rate an employee earns when they are working.

What can sick and safe time be used for?

Employees can use their earned sick and safe time for reasons such as:

- 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.

Which family members are included?

Employees may use earned sick and safe time for the following family members:

1. their child, including 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 (in place of a parent);
2. their spouse or registered domestic partner;
3. their sibling, stepsibling or foster sibling;
4. their biological, adoptive or foster parent, stepparent or a person who stood in loco parentis (in place of a parent) when the employee was a minor child;
5. their grandchild, foster grandchild or step-grandchild;
6. their grandparent or step-grandparent;
7. a child of a sibling of the employee;
8. a sibling of the parents of the employee;
9. a child-in-law or sibling-in-law;
10. any of the family members listed in 1 through 9 above of an employee's spouse or registered domestic partner;
11. any other individual related by blood or whose close association with the employee is the equivalent of a family relationship; and
12. up to one individual annually designated by the employee.

What additional sick and safe time responsibilities do employers have?

In addition to providing their employees with one hour of paid leave for every 30 hours worked, up to at least 48 hours each year, employers are required to:

- include the total number of earned sick and safe time hours available for use, as well as the total number of earned sick and safe time hours used, on earnings statements provided to employees at the end of each pay period;
- provide employees with a **notice** by Jan. 1, 2024 — or at the start of employment, whichever is later — in English and in an employee's primary language if that is not English, informing them about earned sick and safe time; and
- **include a sick and safe time notice in the employee handbook, if the employer has an employee handbook.**

The Minnesota Department of Labor and Industry has created a uniform employee notice that employers can use and will make it available in the five most common languages spoken in Minnesota.

Current sick and safe time local ordinances

Earned sick and safe time local ordinances already exist in the cities of [Bloomington](#), [Duluth](#), [Minneapolis](#) and [St. Paul](#), Minnesota. When Minnesota's statewide earned sick and safe time law goes into effect Jan. 1, 2024, employers must follow the most protective law that applies to their employees.

FAQS: EARNED SICK AND SAFE TIME (ESST)

Contents

- [Fast facts](#)
- [Basic information](#)
- [General questions](#)
- [Earning hours: Accrual, front-loading and carryover](#)
- [Using ESST hours](#)
- [Rates of pay](#)
- [Recordkeeping and notice to employees](#)
- [Complaints](#)

Fast facts

- Minnesota's earned sick and safe time (ESST) law goes into effect Jan. 1, 2024.
- Employers must provide each employee in Minnesota at least one hour of paid sick and safe time for every 30 hours worked, up to at least 48 hours of accrued ESST a year. An employee is anyone who works at least 80 hours in a year for an employer in Minnesota and is not an independent contractor.
- An employer's existing leave policy, such as paid time off (PTO), may already fully or partially meet Minnesota's earned sick and safe time requirements.
- ESST local ordinances are in effect in the cities of Bloomington, Duluth, Minneapolis and St. Paul, Minnesota, and may differ from the state's ESST requirements. Employers are responsible for following the ESST requirements most favorable to their employees.
- The Minnesota Department of Labor and Industry is responsible for enforcing ESST requirements. In addition, affected employees may bring a civil lawsuit to address ESST violations.

[Back to top](#)

Basic information

What is Minnesota's earned sick and safe time law?

Effective Jan. 1, 2024, Minnesota's earned sick and safe time law requires employers to provide paid leave to employees who work in the state. An employee is anyone who works at least 80 hours in a year for an employer in Minnesota, but does not include independent contractors. Temporary and part-time employees are covered under the law.

Employers must provide each employee in Minnesota with one hour of ESST for every 30 hours worked, with the ability to accumulate at least 48 hours of ESST each year. An employer's existing leave policy, such as PTO, may already meet Minnesota's ESST requirements.

What can earned sick and safe time be used for?

Employees can use their earned sick and safe time for reasons such as:

1. the employee's mental or physical illness, treatment or preventive care;
2. a family member's mental or physical illness, treatment or preventive care;
3. absence due to domestic abuse, sexual assault or stalking of the employee or a family member;
4. 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
5. 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.

For which family members can an employee use ESST?

Employees may use earned sick and safe time for the following family members:

1. their child, including 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 (in place of a parent);
2. their spouse or registered domestic partner;
3. their sibling, stepsibling or foster sibling;
4. their biological, adoptive or foster parent, stepparent or a person who stood in loco parentis (in place of a parent) when the employee was a minor child;
5. their grandchild, foster grandchild or step-grandchild;
6. their grandparent or step-grandparent;
7. a child of a sibling of the employee;
8. a sibling of the parents of the employee;
9. a child-in-law or sibling-in-law;
10. any of the family members (1 through 9 above) of an employee's spouse or registered domestic partner;
11. any other individual related by blood or whose close association with the employee is the equivalent of a family relationship; and
12. up to one individual annually designated by the employee.

What ESST responsibilities does an employer have if it already provides leave?

A paid time off (PTO) plan or other type of paid leave (including sick or vacation time) can satisfy the ESST law if the plan meets Minnesota's ESST requirements. Nothing prohibits an employer from providing more generous leave policies than the minimum required by the ESST law.

The name of the employer's paid time off or other paid leave policy does not matter. It does not have to be called "earned sick and safe time" to meet the requirements of the law.

Is the state ESST law the same as the sick time ordinances in several Minnesota cities?

ESST local ordinances are in effect in the cities of Bloomington, Duluth, Minneapolis and St. Paul, Minnesota, and may vary from the requirements under state law.

When Minnesota's statewide earned sick and safe time law goes into effect Jan. 1, 2024, employers are responsible for following the ESST requirements most favorable to their employees. In other words, employers must comply with the specific requirements of the state ESST law and the applicable local ESST ordinance that are most favorable to their employees. This may mean following some of the requirements of state ESST law and other requirements of the local ESST law.

[Back to top](#)

General questions

Who is *not* covered by Minnesota's ESST law?

Federal employees and independent contractors are not covered under Minnesota's ESST law. Certain individuals employed by an air carrier as a flight deck or cabin crew member are also not covered. The ESST law does not apply to building and construction industry employees who are represented by a building and construction trades labor organization if a valid waiver of these requirements is provided in a collective bargaining agreement.

Do governmental units need to provide ESST to elected officials?

Only "employees" as defined in the ESST law must be provided ESST; **elected officials are not considered employees under the ESST law.**

Does the employee have to live in Minnesota to be covered by ESST?

Employees do not have to live in Minnesota to be eligible for ESST accrual but must work at least 80 hours in Minnesota in a year to be eligible; time worked in Minnesota will apply to ESST accrual. If an employer is based in Minnesota but has employees

who work in another state, those out-of-state employees are not covered by Minnesota's ESST law.

If an employer contracts with a staffing agency for temporary employees, which entity is responsible under Minnesota's ESST law to meet the sick and safe time obligations for the temporary employees?

Under Minnesota's ESST law, unless there is a contract that states otherwise, the staffing agency is responsible for the ESST obligations.

[Back to top](#)

Earning hours: Accrual, front loading and carryover

When do employees begin to accrue ESST?

Employees begin accruing ESST on their first day of employment.

What is accrual of hours?

Accrual of hours is when each ESST hour is added to a saved total the employee may use. Employers must provide each employee in Minnesota with one hour of ESST for every 30 hours worked, up to at least 48 hours a year.

Sample scenarios

- Manuel works 30 hours a week at Classic Automotive and has worked there for seven months (28 weeks). Manuel has accrued 28 hours of ESST: 30 hours worked x 28 weeks = 840 hours worked. 840 divided by 30 = 28 hours of ESST.
- Sara works 40 hours a week at Mid-Minnesota Warehousing and has worked there for three weeks. Sara has accrued four hours of ESST: 40 hours worked x 3 weeks = 120 hours worked. 120 divided by 30 = 4 hours of ESST.

Can an employer put a cap on how many ESST hours an employee can accrue?

Yes, employers may set a cap or limit on each employee's ESST accrual. Employers must allow each employee to accrue up to **at least 48 hours a year**, carried over from year to year, until an **80-hour maximum accrual** is reached. These limits of 48 hours each year and a maximum accrual of 80 hours for each employee may be higher if an employer agrees, but not lower. See options 2 and 3 below for front loading options that do not involve required carryover.

Sample scenario

- Ali Consultants limits its employees' accrual of ESST hours to the minimum standard of 80 hours. Michelle accrued 30 ESST hours by the end of the first year of her employment. These 30 hours carried over into the second year, during which she accrued an additional 48 hours. She did not use any of these accrued hours. In the third year, Michelle accrues an additional two ESST hours before stopping at a limit of 80 hours (30 + 48 + 2). Because the employer capped the number of ESST hours at 80, she must use some accrued hours in her "bank" of 80 hours before accruing more ESST hours.

Do unused ESST hours carry over from year to year?

Yes, employers must carry over each employee's accrued and unused ESST hours to the following year unless the employer chooses to front load ESST hours in accordance with the options provided in the ESST law listed below. Total accruals including carryover amounts may be capped at 80 hours of ESST.

Sample scenario without front loading

- Lee accrued 30 ESST hours by the end of the first year of employment. However, Lee did not use any of these ESST hours. Lee's employer must carry over those 30 hours into the following year. Lee may then accrue additional hours up to at least 48 in the second year.

How does a salaried and exempt employee accrue sick and safe time hours?

Employees who are exempt from overtime because they are professional, administrative, or executive employees are presumed to work 40 hours a week for the purposes of ESST accrual. If there is clear evidence an exempt employee's regular work week is less than 40 hours, ESST may accrue based on that employee's actual regular work week.

Do hours accrue when the employee is not working (on vacation or out sick)?

The law does not require ESST hours to accrue when an employee is not working.

How frequently are ESST hours calculated?

Employers may calculate and record earned sick and safe time hours at the same frequency as the employer's other typical payroll practices (i.e., by pay period, whether that's weekly, biweekly, monthly, or twice monthly). Amounts available for use in addition to amounts used each pay period must be listed on the employee's earnings statement (also known as a paystub).

What is a "year" for purposes of the ESST law?

A “year” means any consecutive 12-month period of time as determined by an employer and clearly communicated to employees. Most employers will find it helpful to use one of the following: calendar year (Jan. 1 through Dec. 31); tax year; fiscal year; or year based on the employee’s anniversary date of employment. While the employer may determine the accrual year, it is important to note that all employees must either 1) start accruing hours on Jan. 1, 2024, or 2) have at least 48 hours front loaded on Jan. 1, 2024.

How does “front loading” versus accrual of hours affect carryover into the next year under Minnesota’s ESST law?

“Front loading” of ESST hours is an alternative method for providing ESST to employees. This option allows employers to record accrual of ESST once a year and avoid carry over of hours from year to year. Some employers may want to use this method to reduce the calculations and recordkeeping required for accrual by pay period (weekly, biweekly, twice monthly or monthly).

Employers may choose whether hours will accrue each pay period or be “front loaded” at the start of each year. Option 1 allows for carryover, but employers can avoid carryover requirements by using either Option 2 or 3.

Option 1. Accrual and carryover:

- employees begin accruing ESST from their first day of employment;
- ESST accrues at a rate of at least one hour for every 30 hours worked;
- employees are permitted to accrue a minimum of up to 48 hours of ESST in a year (more if the employer agrees to a higher amount); and
- employees carry over unused ESST into the next year. However, at no time can an employee’s accrued ESST exceed 80 hours (unless the employer agrees to a higher amount).

Option 2. Front loading with pay out and no carryover:

- A minimum of 48 hours of ESST is provided to an employee and made available for immediate use at the start of each year; and
- unused ESST hours are paid out at the end of the accrual year at the employee’s hourly rate.

Option 3. Front loading with no pay out and no carryover:

- A minimum of 80 hours of ESST is provided to an employee and made available for immediate use at the start of each year; and
- the ESST hours the employee did not use are not paid out at the end of the accrual year.

Sample scenario

- Ana is a business owner. She employs Omar and front loads Omar's sick and safe time hours once a year. At the beginning of Omar's first year of employment, Ana front loads 48 hours into Omar's bank. He has eight hours of remaining sick and safe time at the end of the first year, which Ana pays out. At the beginning of Omar's second year and every year thereafter, Ana front loads 80 hours into Omar's bank; once using option 3 (see above), Ana is not required to pay out unused ESST hours at the end of the year.

May an employer front load yearly ESST hours for part-time employees?

Yes, an employer may front load yearly ESST hours for part-time or full-time employees.

May an employer treat part-time and full-time employees differently? For example, can the employer front load ESST hours for some employees but not others?

Yes, an employer may treat part-time and full-time employees differently for purposes of ESST so long as the employer provides all employees at least what they are entitled to under Minnesota's ESST law and as long as the law is applied in a way that does not discriminate against an employee or group of employees based on a protected class, such as race, sex or national origin.

Does ESST accrue the same way for building and construction industry employees?

The requirements for ESST can be waived through a collective bargaining agreement with a bona fide building and construction trades labor organization. This waiver needs to reference the ESST law specifically.

Must unused ESST hours be paid out when an employee leaves their job?

Employers are not required to pay out any accrued and unused ESST if an employee leaves their job, either voluntarily or involuntarily. However, employers may choose to do so. An employee who transfers positions or work units within a single employer retains their accrued ESST.

Are ESST hours restored if an employee returns to work for a former employer?

An employee who returns to work for the same employer within 180 days of separation is entitled to the ESST hours accrued before leaving the employer.

What happens to ESST hours if the workplace changes owners?

If a workplace changes ownership, retained employees keep their accrued and unused ESST. Employees who are terminated by the original owner as part of the change in ownership and are rehired by the new owner within 30 days of ownership change are also entitled to their accrued and unused ESST.

Do sick and safe time hours accrue on overtime hours worked?

ESST hours accrue on all hours worked, including overtime hours, unless the employee is exempt from earning overtime compensation under exemptions for professional, administrative and executive employees.

[Back to top](#)

Using ESST hours

When can employees start using accrued ESST hours?

Employees may use earned sick and safe time as it is accrued.

Can an employer require an employee to provide notice to use ESST leave?

An employer may require notice of up to seven days in advance when the need to use ESST is foreseeable. If the need is unforeseeable, an employer may require notice as soon as practicable. If an employer requires notice, the employer must have a written policy regarding notice procedures and must provide a written copy of the policy to employees; if the policy is not provided to employees, then an employer cannot deny use of ESST to an employee on the grounds that the employee did not follow the notice policy.

Sample scenarios

- Victor works for Crescent Laundry Inc., which typically requires its employees to provide at least 24 hours advance notice of any absence according to the written policy. Two hours before Victor's shift, his child develops stomach pains and Victor needs to take her to the doctor. Under these circumstances, Victor does not need to comply with Crescent Laundry's 24-hour advance notice policy; rather, he should provide Crescent Laundry with notice as soon as practicable of his ESST use.
- Peter owns O's Market and employs Abdi. O's Market has a written policy requiring seven days advance notice from its employees for sick and safe time use when the absence is foreseeable. Abdi schedules a preventive care check-up for his daughter several months in advance of the check-up but forgets to inform O's Market until two days before the appointment. Under these circumstances, the employer may deny Abdi's use of ESST for the appointment.

because its written policy meets ESST requirements and the ESST use was foreseeable.

Can an employer require an employee to provide documentation to use ESST leave?

An employer may require an employee to provide reasonable documentation of ESST use only when more than three consecutive days of ESST are used. If the employee is unable to secure the requested documentation, in most cases the employee may supply the employer with a written statement indicating the employee is using or used ESST for a qualifying purpose. The written statement may be written in the employee's first language and does not need to be notarized or in any particular format.

Sample scenario

- Employee Kyle has used ESST for four consecutive days because of illness. Because Kyle has used ESST for more than three consecutive days, Kyle's employer may condition approval of sick and safe time hours on requested documentation. However, if Kyle is unable to get documentation because he did not see a health care professional or he could not obtain the documentation from a health care professional in a reasonable timeframe or without added expense, Kyle can instead provide a written statement that he used the ESST leave for a qualifying purpose.

Must an employee specifically ask to use "sick and safe time" to use it?

No, the law does not require that an employee specifically ask to use "sick and safe time" to use it.

Can an employer require an employee to provide specific details about the reason for using sick and safe time?

No, the law does not require that an employee provide specific details about the reason for using sick and safe time, including details related to the employee's or their family member's medical condition.

Does an employer have to keep medical information about employees confidential?

Yes, an employer must keep health and safety information about an employee or an employee's family member obtained because of the ESST law confidential unless the employee permits disclosure or the disclosure is required by law. Related medical records and documents must be maintained as confidential medical files separate from employee personnel files.

Does an employee have to find someone to cover their shift to use ESST?

No, employers are prohibited from making employees find replacement workers as a condition of using ESST.

Does an employee have to use a certain amount of ESST for each absence?

Employees may use ESST in the smallest increment of time tracked by the employer's payroll system or four hours, whichever is smaller.

Does an employer's PTO policy meet the requirements of the ESST law if their employees can choose whether to use PTO for vacation, sick and safe time, or both?

As long as the PTO policy is as generous as what is required under the ESST law, an employer's PTO policy meets ESST requirements even if an employee chooses to use some or all PTO for vacation leave instead of ESST leave.

May an employee use ESST at the same time as other protected leave under other state or federal laws?

Yes, because the ESST law does not limit or otherwise affect the applicability of other laws that extend other protections to employees, an employee may use ESST at the same time as other protected leave under other state or federal laws.

[Back to top](#)

Rates of pay

At what rate must ESST be paid?

ESST must be paid at the same hourly rate as an employee earns from employment. Under no circumstances can the hourly rate be less than the applicable local or state minimum wage, whichever is higher.

Is ESST paid at the wage rate at the time of accrual or the wage rate at the time ESST is used?

ESST must be paid at the hourly rate of pay for the shift for which the leave is being used.

If an employee has two or more different rates of pay for the same employer, what should the rate of pay be for sick and safe time hours used?

The rate of pay for the employee's use of sick and safe time should be the rate of pay for the job or shift the employee was scheduled to work but for which ESST hours were used instead.

[Back to top](#)

Recordkeeping and notice to employees

What ESST recordkeeping responsibilities do employers have?

Employers currently must provide [earnings statements with certain required information](#) to employees at the end of each pay period. When the ESST law goes into effect, employers will be required to include the following additional information on earnings statements:

- the total number of sick and safe time hours available for use by the employee; and
- the total number of sick and safe time hours used by the employee in the pay period.

In addition, [employers are required to keep record of hours worked, as well as other information](#), and must retain these records for three years.

Do employers need to provide employees with notice regarding their rights under the ESST law?

Yes, employers must provide notice to all employees that includes at least the following information:

- employees are entitled to ESST;
- the amount of ESST they will accrue;
- the accrual year for the employee (as set by the employer);
- the terms regarding when employees may use ESST;
- a copy of any existing written policy regarding employees providing notice to use ESST;
- an explanation that retaliation for requesting or using ESST is prohibited; and
- an explanation that employees have a right to file a complaint or to bring a civil action if ESST is denied or if employees are retaliated against for requesting or using ESST.

This notice needs to be provided to employees in English and the primary language of the employee. DLI will prepare a sample notice for employer use; however, employers are not required to use the sample notice as long as their notice contains all of the required information above. The sample notice will be available on the [Workplace notices and posters](#) webpage in English.

DLI will also translate the sample notice into Chinese, Hmong, Somali and Spanish, and will translate the notice into additional languages upon request.

In what manner must employers provide the ESST notice to employees?

Employers must provide the ESST notice in a manner that is at least as effective as one of these options:

- posting a copy of the notice at each location where employees perform work;
- providing a paper or electronic copy of the notice to all employees; or
- posting the notice on a web-based or app-based platform that employees use to perform work.

An employer that provides an employee handbook to its employees must also include in the handbook a copy of the required earned sick and safe time information.

When must an employer provide the ESST notice to employees?

Employers must provide the ESST notice to employees upon the start of their employment or by Jan. 1, 2024, when the ESST law goes into effect, whichever date is later.

[Back to top](#)

Complaints

What options does an employee have if their employer fails to provide ESST or retaliates against an employee for exercising their rights under the ESST law?

The employee can contact the Minnesota Department of Labor and Industry (DLI) to submit a complaint. In addition, employees may bring a civil lawsuit to remedy ESST violations.

How are complaints filed with DLI?

Complaints regarding violations of the earned sick and safe time requirements can be submitted to DLI's Labor Standards Division at 651-284-5075 or dli.laborstandards@state.mn.us.

Can complaints be filed anonymously?

Complaints can be filed anonymously, but it may be helpful for DLI to have the name and contact information for follow up.

