



Earned Sick and Safe Time and other MN Labor Standards

Jan 23, 2025

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Labor standards enforced by DLI

- Minnesota Fair Labor Standards Act
- Women's Economic Security Act
- Child Labor Standards Act
- Minnesota Prevailing Wage Act
- Wage Theft Prevention Act
- Other laws related to employment, wages, conditions and hours



ESST overview

- Effective Jan. 1, 2024.
- Sick and safe time is paid leave employers must provide to employees in Minnesota
- A worker is eligible for earned sick and safe time if they:
 - Are anticipated to work at least 80 hours in a year for an employer in Minnesota and;
 - Are not an independent contractor



Who is not covered by Minnesota's ESST law?

- Federal employees.
- Volunteer and paid-on-call firefighters.
- Volunteer ambulance attendants and ambulance service personnel who serve in a paid on-call position.
- Elected officials or a person appointed to fill a vacancy to elected office.
- An individual employed by a farmer, family farm or family farm corporation to do physical labor or manage the farm, if they are hired to work for 28 days or less each year.
- 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.
- Certain family caregivers who have waived their rights to ESST.

What is sick and safe time?

Sick and safe time is **paid** time off from work that eligible employees in Minnesota can use for certain reasons, including:

- Absence due to the employee's mental or physical illness, treatment, or preventive care;
- Absence due to 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.
- **Bereavement leave**

Which family members are included?

- 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);
- their **spouse** or registered domestic partner;
- their **sibling**, stepsibling or foster sibling;
- 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;
- their **grandchild**, foster grandchild or step-grandchild;
- their **grandparent** or step-grandparent;
- a **child of a sibling** of the employee;
- a **sibling of the parents** of the employee;
- a **child-in-law** or sibling-in-law;
- any of the family members listed of an employee's spouse or registered domestic partner;
- any other individual **related by blood** or whose **close association** with the employee is the equivalent of a family relationship; and
- up to **one individual annually designated** by the employee.

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 up to at least 48 hours each year unless the employer agrees to a higher amount.

Employees can carry over unused ESST into the next year up to 80 hours.

How does carryover work?

Example

Example

Week #	# of ESST hours carried over from 2024	# of hours worked per week	# of ESST hours accrued in 2025	TOTAL (carried over from 2024 + accrual from 2025)
Week 23	48	40	30.6666667	78.6666667
Week 24	48	40	32	80
Week 25	48	40	32	80
Week 26	48	40	32	80
Week 27	48	40	32	80
Week 28	28	20	32.6666667	60.6666667
Week 29	28	40	34	62
Week 30	28	40	35.3333333	63.3333333
Week 31	28	40	36.6666667	64.6666667
Week 32	28	40	38	66
Week 33	28	40	39.3333333	67.3333333
Week 34	28	40	40.6666667	68.6666667
Week 35	28	40	42	70
Week 36	28	40	43.3333333	71.3333333
Week 37	28	40	44.6666667	72.6666667
Week 38	28	40	46	74
Week 39	28	40	47.3333333	75.3333333
Week 40	28	40	48	76
Week 41	28	40	48	76

Front loading in lieu of ongoing accruals with carryover

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.

Rate of pay

- Employers must provide employees who use ESST with pay equal to the **base rate** the employee earns from employment.
- Employees must be paid at least the highest applicable minimum wage (local, state or federal).

The **base rate** does not include:

- commissions;
- shift differentials;
- overtime;
- extra pay for working weekends, holidays or scheduled days off;
- bonuses; and
- tips or gratuities.

Other key details

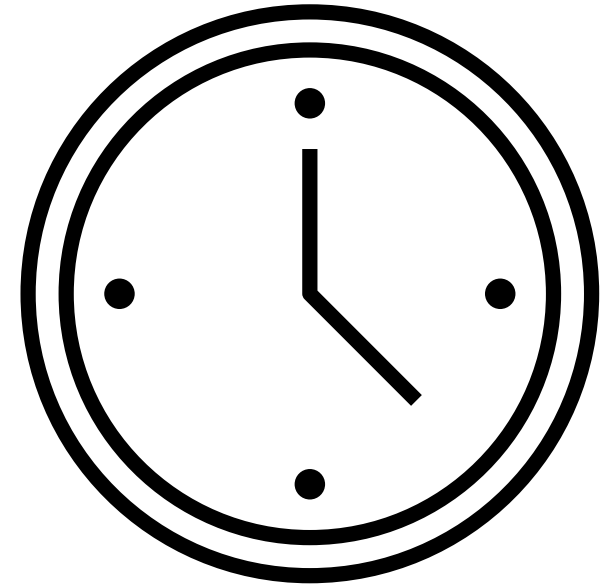
- Notice of use:
 - Foreseeable: Up to seven-day notice
 - Unforeseeable: Notify as soon as practicable
- Documentation:
 - Employers cannot require reasonable documentation unless the employee has used ESST for more than three consecutive scheduled days
- Replacement workers:
 - Employers are prohibited from making employees find replacement workers as a condition of using ESST.



Increment of ESST use

Employees may use ESST in the same increments of time as they are paid, except employers:

- Are not required to allow leave in increments smaller than 15 minutes.
 - For example, if an employee would like to use 3:07 of ESST, the employer may require 3:15 of ESST be used.
- Cannot require employees to use more than four hours of ESST at once.



Employer responsibilities: Notice to employees

By Jan. 1, 2024 (or date of hire if later), employers must provide the ESST notice to employees 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.

This notice needs to be provided to employees in English and the primary language of the employee. DLI currently has the sample ESST notice available in 22 languages and employers can request translation in additional languages as needed at no cost.

Employer responsibilities: Retention of records

- Employers must keep accurate records of hours worked and earned sick and safe time taken
- Employees have the right to inspect their records at a reasonable time and place.
- Records must be readily available for inspection by the commissioner upon demand and kept at a place of work or in a manner that allows compliance within 72 hours.

Employer responsibilities: Reporting ESST hours

At the end of each pay period employers must provide employees with:

1. the total number of ESST hours available for the employee to use; and
2. the total number of ESST hours that the employee used during that pay period.

Information can be provided through earnings statements or electronic systems

If provided electronically, employees must have access to an employer-owned computer to review and print the information.

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

Retaliation prohibited

- **Generally:** An employer shall not discharge, discipline, penalize, interfere with, threaten, restrain, coerce or otherwise retaliate or discriminate against a person because the person has exercised/attempted use of ESST or made a complaint/filed an action related to enforcement of ESST.
- **Absence control policies/attendance points:** It shall be unlawful for an employer's absence control policy or attendance point system to count ESST taken under this act as an absence that may lead to or result in retaliation or any other adverse action.
- **Citizenship/immigration status:** It shall be unlawful for an employer or any other person to report or threaten to report the actual or suspected citizenship or immigration status of a person or their family member to a federal, state or local agency for exercising or attempting to exercise any right protected under this act.

ESST application to other paid time off (Jan. 1, 2025)

If an employer provides employees with paid time off (PTO) or other paid leave that is more than the amount required under the ESST law **for absences due to personal illness or injury**, the additional PTO must meet the same requirements as the ESST hours, other than the ESST accrual requirements, when used for an ESST-qualifying purpose.

For example, if an employee receives 50 hours of PTO in addition to the minimum requirement of 48 ESST hours per year, the employer must follow the ESST requirements about notice, documentation, anti-retaliation, replacement workers and more for the additional PTO hours **when they are used for an ESST-qualifying purpose**.

Other ESST updates

- Weather related workplace closure exemption created for emergency personnel, corrections faculty staff and public employees with a commercial driver's license.
- Remedies for ESST violations:
 - employers may be liable for the amount of ESST that should have been provided or could have used, plus an equal amount as liquidated damages; and
 - if the exact ESST hours owed is unclear, employers are liable for 48 hours each year ESST was not provided, plus an equal amount as liquidated damages.

ESST rulemaking

m DEPARTMENT OF LABOR AND INDUSTRY

CONTACT US CHECK A LICENSE GET A PERMIT RENEW A LICENSE MAKE A PAYMENT

DIRECTIONS

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RULEMAKING DOCKET FOR MINNESOTA RULES, CHAPTER 5200

Earned sick and safe time, Minnesota Rules, part 5200.1200

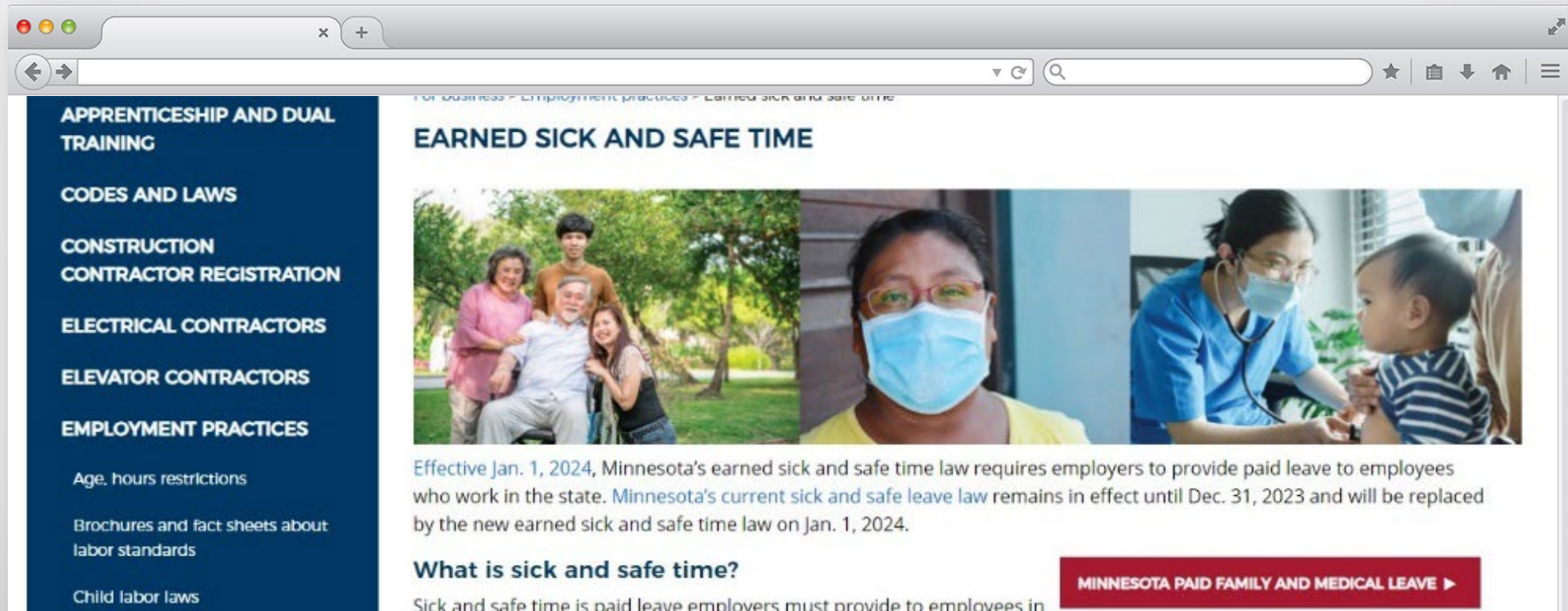
The Minnesota Department of Labor and Industry (DLI) requests comments on its possible adoption of a new part of Minnesota Rules, chapter 5200, for rules governing earned sick and safe time (ESST). The rules are intended to provide guidance to employers and employees regarding the application of the ESST law. ESST is paid leave that employers covered by the law must provide to defined employees 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, sexual assault or stalking.

Published notices and comment periods

The request for comments was published in the *State Register* (page 79) on July 22, 2024. The first comment period ran from July 22, 2024, to Sept. 6, 2024. That comment period is now closed. A second comment period will be provided at a later date to receive further feedback from the public.

Resources

- DLI's ESST page: sickleave.mn.gov
 - FAQs, sample employee notice, fact sheet, workplace poster, informational videos
- Call Labor Standards at 651-284-5075 or email esst.dli@state.mn.us
- [Sign up for *The Wage and Hour Bulletin*](#)



The screenshot shows a web browser window displaying the Minnesota Department of Labor Standards website. The page title is "EARNED SICK AND SAFE TIME". The left sidebar contains a navigation menu with the following items: APPRENTICESHIP AND DUAL TRAINING, CODES AND LAWS, CONSTRUCTION, CONTRACTOR REGISTRATION, ELECTRICAL CONTRACTORS, ELEVATOR CONTRACTORS, and EMPLOYMENT PRACTICES. Under EMPLOYMENT PRACTICES, there are links for "Age, hours restrictions", "Brochures and fact sheets about labor standards", and "Child labor laws". The main content area features a header "EARNED SICK AND SAFE TIME" and a large image showing a family, a woman wearing a face mask, and a doctor examining a child. Below the image, the text states: "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." Below this text is a section titled "What is sick and safe time?" and a red button labeled "MINNESOTA PAID FAMILY AND MEDICAL LEAVE ►".

Employee notice



Employee notice

1. Employee:		Address:	
Phone number:		Email address:	
Date employment began:			
2. Legal name of employer:		Main office/principal place of business address:	
Phone number:		Email address:	
Operating name of employer (if different):			
Mailing address (if different):			
3. Employment status (exempt or non-exempt):			
<input type="checkbox"/> Employee is exempt from: <input type="checkbox"/> minimum wage <input type="checkbox"/> overtime <input type="checkbox"/> other provisions of Minnesota Statutes 177			
Legal basis for exemption:			
<input type="checkbox"/> Employee is non-exempt (entitled to overtime, minimum wage, other protections under Minn. Stat. 177)			
4. Rate or rates of pay			
Paid by: Hour <input type="checkbox"/> Shift <input type="checkbox"/> Day <input type="checkbox"/> Week <input type="checkbox"/> Salary <input type="checkbox"/> Piece <input type="checkbox"/> Commission <input type="checkbox"/> Other method <input type="checkbox"/>			

Earnings statement requirements

- Name of the employee
- Total hours worked by the employee in the pay period
- Total amount of gross pay earned by the employee in the pay period
- Net amount of pay after all deductions are made
- List of deductions made from the employee's pay
- Date pay period ended
- Employer's legal and operating name
- ~~Earned sick and safe time available and used in the most recent pay period~~

Earnings Information	Current	Year to Date
Normal Gross	4,389.30	
Deductions	0.00	
Over Time	0.00	
EARNINGS TOTAL	4,389.30	5,277.30
Non-Taxable Gross	351.14	418.18
Taxable Gross	3,971.12	4,859.12

Statutory & Other Deductions	Current	Year to Date
Federal Withholding	311.17	311.17
Additional Federal Withholding	0.00	*****
State Withholding	135.96	135.96
Additional State Withholding	0.00	*****
SDI	0.00	55.06
Medicare	62.67	75.55
Medicare Buyout	0.00	0.00
State Disability Insurance	0.00	0.00
RS	351.14	351.14
RS	0.00	0.00
Employee Retirement	0.00	0.00
	67.04	0.00

Earnings statement requirements

- At the end of each pay period, the employer shall provide each employee an earnings statement, either in writing or by electronic means, covering that pay period. An employer who chooses to provide an earnings statement by electronic means must provide employee access to an employer-owned computer during an employee's regular working hours to review and print earnings statements, and must make statements available for review or printing for a period of three years.
- An employer must provide earnings statements to an employee in writing, rather than by electronic means, if the employer has received at least 24 hours notice from an employee that the employee would like to receive earnings statements in written form. Once an employer has received notice from an employee that the employee would like to receive earnings statements in written form, the employer must comply with that request on an ongoing basis

Earnings statement retention

- Employers are required to keep records of earnings statements for three years.
- Employers are already required to provide earnings statements to employees. This change requires retention of earnings statements.
- Effective Aug. 1, 2024.

Recordkeeping

- Recordkeeping requirements:
 - the employee's name, address and occupation;
 - the employee's rate(s) of pay and the amount(s) paid each pay period;
 - the employee's hours worked each day and each workweek;
 - certified payroll (for prevailing-wage projects only); and
 - other information the commissioner finds necessary and appropriate to enforce Minnesota Statutes 177.21 to 177.435.



Recordkeeping, continued

- Additional records employers are now required to maintain:
 - the employee's hours worked each day and each workweek, including, for all employees paid at piece rate, the number of pieces completed at each piece rate;
 - a list of the personnel policies provided to the employee, including the date the policies were given to the employee and a brief description of the policies; and
 - a copy of the employee notice, plus a copy of any written changes to the notice that were provided to each employee.



Recordkeeping, continued

- Records must be available for inspection upon demand from the Department of Labor and Industry (DLI).
- Records must be either kept at the place where employees are working or kept in a manner that allows the employer to comply with the demand within 72 hours.
- If records maintained by the employer do not provide sufficient information to determine the exact amount of back-wages due, DLI may make a determination of back-wages due based on available evidence.



Minimum wage standardized

- **Eliminated:** small-employer minimum wage, youth large-employer minimum wage, and the J-1 visa wage for hotels, motels and lodging establishments; effective January 1, 2025
- Employers are still able to use the 90-day training wage for employees under the age of 20.
- The cap on the annual adjustment of the minimum wage for inflation increased from 2.5 percent to 5 percent.

Minimum wage standardized effective Jan 1, 2025

- Minnesota's minimum-wage rate adjusted for inflation to \$11.13 an hour for all employers in the state.
- The 90-day training wage for workers under age 20 adjusted to \$9.08

Women's Economic Security Act (WESA)

- Wage disclosure
- Nursing mothers
- Pregnancy and parental leave
- Pregnancy accommodations



Women's Economic Security Act (WESA)

- Aims to strengthen workplace protections for women and pregnant or nursing employees
- Applies to all Minnesota workers
 - Regardless of immigration status
 - Workers of all genders
- Designed as a comprehensive worker protection law

Workplace oral fluid drug testing

- Updates the “Drug and Alcohol Testing in the Workplace Act” to allow for oral fluid testing in pre-employment and employee drug testing. It includes alternative testing and retesting at no cost to the employee or applicant.
- Effective Aug. 1, 2024.
- Not enforced by DLI.

Article 7, sections 4-7 and 52 of SF3852

Salary ranges required in job postings

- Requires salary ranges to be included in all job postings.
- Employers with 30 employees or more
- Effective Jan. 1, 2025.
- Not enforced by DLI.

Article 7, section 42 of SF3852

Restrictive employment covenants void in service contracts

- Creates Minnesota Statutes 181.9881, which provides that no service provider may prohibit a customer from soliciting or hiring an employee of a service provider.
- Effective July 1, 2024.
- Not enforced by DLI.

Article 2, section 53 of SF3852

Thank you

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