



EARNED SICK AND SAFE TIME (ESST)

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Workplace Rights Week in Minnesota is this week. It's an opportunity to educate workers and employers about their rights and responsibilities.

The website is full of great information. Check it out!



ESST fast facts



Minnesota's earned sick and safe time (ESST) law was effective January 1, 2024. Additional clarifications to the law were made effective May 25, 2024.



The law requires employers to provide each employee in Minnesota at least one hour of paid sick and safe time for every 30 hours worked, up to 48 hours of accrued ESST per year.



An employer's existing leave policies may already fully or partially meet Minnesota's ESST requirements.

What is earned sick and safe time (ESST)?

Paid leave employers must provide to employees in Minnesota that can be used for a variety of reasons including:

- employee illness
- to care for a sick family member
- to seek assistance if an employee or family member has experienced domestic abuse.



Who is eligible?

Employees are eligible for sick and safe time if they:

- Are anticipated to work at least 80 hours in a year for a Minnesota employer
- Are not an independent contractor



What about seasonal workers?

Yes.

Part-time, seasonal and temporary employees are eligible.



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Who doesn't qualify?

- Federal employees
- Independent contractors
- Volunteer and paid-on-call firefighters
- Volunteer ambulance service personnel
- Elected officials



Who doesn't qualify cont'd



- 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 28 days or less each year.
- Building and construction industry employees who are represented by a trades labor organization if a valid waiver of these requirements is provided in the collective bargaining agreement.

How much time can employees earn?


By law, employees can earn one hour of sick and safe time for every 30 hours worked and can earn a maximum of 48 hours each year.

- Your policies may be more generous, but they can't go below these minimums.




What can ESST be used for?


The employee's mental or physical illness, treatment or preventative care



A family member's mental or physical illness, treatment or preventative care



Absence due to domestic abuse, sexual assault, or stalking of the employee or family member



To make funeral arrangements, attend a funeral service, or address financial or legal matters after the death of a family member

What can ESST be used for?

- Closure of the employee or family member's workplace due to weather or public emergency
- When determined by a health authority or health care professional that the employee or a family member is at risk of infecting others



Which family members are included?

An employee's child including

- natural child
- adopted child
- foster child
- adult child
- legal ward
- child for whom the employee is legal guardian
- child to whom the employee stands or stood in loco parentis (in place of parent)



Which family members are included?



- Spouse or domestic partner
- Sibling, stepsibling, or foster sibling
- Biological, adoptive or foster parent, stepparent, or a person who stood in loco parentis when the employee was a child
- Grandchild, foster grandchild, or step-grandchild
- Grandparent or step-grandparent
- A child of the sibling of an employee
- A sibling of the parents of the employee
- A child-in law or sibling-in-law

Which family members are included?

The list of family members also applies to:

- the employee's spouse's family
- any other individual related by blood or whose close association with the employee is the equivalent of a family relationship
- up to one individual annually designated by the employee



Must the employee live in Minnesota?

- No. Hours worked in Minnesota will apply to the ESST accrual.
- If the employer is in Minnesota, but has employees who work in another state, those out-of-state employees are not covered by Minnesota's ESST law.



Earning ESST hours



- Employees begin accruing time on first day of employment
- The accrual begins immediately when the employee starts work—not after the 80-hour requirement
- Salaried employees are presumed to work 40 hours a week
- ESST hours accrue on all hours worked including overtime
- The law does not require ESST hours to accrue when an employee is not working
- Employees can accrue ESST hours with more than one employer at a time. These hours are tied to each employer individually.

Sample scenario

James works 30 hours a week for the ABC utility and has worked there for 28 weeks. He has accrued 28 hours of ESST.

- 30 hours worked x 28 weeks = 840 hours worked.
- $840/30 = 28$ hours of ESST.



How is a “year” defined?



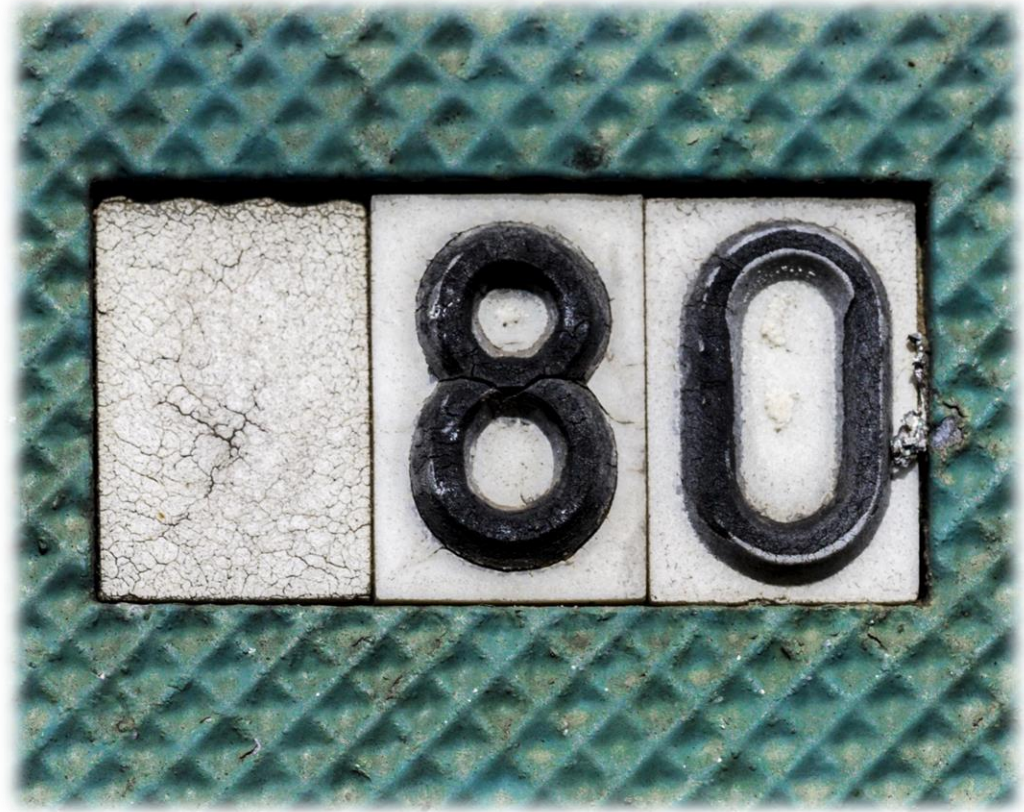
A year means any consecutive 12-month time period determined by the employer:

- calendar year
- fiscal year
- year based on the employee's anniversary date of employment

Capping the number of hours accrued

Under the law, employers:

- must allow each employee to accrue up to at least 48 hours a year
- can allow carry over from year to year
- 80-hour maximum accrual is required by law, but you can allow more



Sample scenario



- ABC utility limits its employees' accrual to the minimum standard of 80 hours.
- Mattie accrued 30 hours of ESST by the end of her first year of employment.
- These hours carried over into the next year, during which she accumulated 48 additional hours.
- She did not use any of her ESST time in either first or second year.
- In the third year, Mattie accrues an additional 2 hours before stopping at the limit of 80 hours.
- Because ABC utility caps the number of ESST hours at 80, she must use some accrued hours in her "bank" before accruing more time.

Rates of pay

Employers must provide employees who use ESST with pay equal to the base rate the employee earns from employment.



Payout of ESST hours



Employers are not required to pay out any accrued and unused ESST if an employee leaves their job.

Restoring ESST hours

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.



Employer responsibilities



- At the end of each pay period, provide every employee with the total number of earned sick and safe time hours used
- Provide employees with written notice by January 1, 2024, or at the start of employment
- Include a sick and safe time notice in the employee handbook, if you have a handbook

Sample notice

Go to:

<https://www.dli.mn.gov> > ESST
sample notice

You can edit the document to
reflect your specific policy



Is ESST the same as paid family and medical leave?

No. These programs are different but meant to be complementary.



Questions?



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