

Earned Sick and Safe Time (ESST)

October 2026

Overview

Minnesota's Earned Sick and Safe Time (ESST) law took effect on January 1, 2024. It applies to employees in Minnesota expected to work at least 80 hours a year and requires employees to accrue up to 48 hours of ESST each year, unless an employer chooses to provide more. ESST is administered and paid by individual employers and can be used to take paid time off work due to an employee or family member's qualifying illness, injury, or safety concern, including a short-term reason.

Passed in 2023 and amended in 2024 and 2025, the ESST law is found in Minnesota Statutes, sections [181.9445 to 181.9448](#).¹ Adopted Minnesota Rules, parts [5200.1200 to 5200.1209](#), took effect for ESST on July 6, 2026.

This publication explains aspects of the ESST law, including:

- ESST accrual (page 2);
- eligibility requirements (page 2);
- employee use, notice, and documentation (page 3);
- employee protections (page 3);
- employee's base rate (page 3);
- carryover requirements (page 4);
- employer responsibilities (page 4);
- enforcement (page 4); and
- interaction with Paid Family Medical Leave and other leaves (page 5).

¹ [Laws 2024, ch. 127, art. 11](#) (clarifying employee eligibility and exceptions, how ESST is paid, remedies, use for bereavement and weather events, notice and documentation requirements, and impact on more generous policies); [Laws 2025, 1st Spec. Sess. ch. 6, art. 5, §§ 10-13](#) (requiring documentation after two days and clarifying reasonable notice, replacement worker, and advancing ESST hours provisions).

ESST Accrual

The law requires an employee to accrue at least one hour of ESST for every 30 hours worked,² up to a maximum of 48 hours of ESST each year.³ This is the minimum amount an employer must provide, and an employer can choose to offer more hours or a more generous ESST policy.⁴

An employer can also meet ESST requirements through an internal employment policy, such as an existing sick time or paid time off (PTO) policy, if it provides the equivalent or better paid time off.

ESST accrual begins at the start of employment, and an employee may use ESST as it is earned in the smallest increment of time tracked by the employer's payroll. This may be as little as 15 minutes and cannot be greater than four hours.⁵

Eligibility Requirements

ESST requirements apply to most employers in the state and to employees anticipated to work at least 80 hours in the year, including part-time, seasonal, and temporary employees, with certain exceptions.

ESST does not apply to federal workers, independent contractors, or state or local elected officials. Volunteer or paid-on-call firefighters and ambulance personnel are also excluded, as are family farm workers, and farm workers hired for 28 days or less a year.⁶ ESST requirements can be waived for building and construction trades employees under a valid collective bargaining agreement or by certain family caregivers who choose to opt out.⁷

The use of ESST for a qualifying weather event or public emergency can also be limited for certain firefighters, peace officers, and public employees through a collective bargaining agreement or an employer's written staffing policy.⁸

² A salaried employee exempt from federal overtime laws is considered to work 40 hours a week for ESST accruals. Minn. Stat. [§ 181.9446, para. \(c\)](#); Minn. Rules, [part 5200.1202, subp. 2](#) (determining hours worked).

³ Minn. Stat. [§ 181.9446](#) (ESST accrual); Minn. Rules, [parts 5200.1200, subp. 2](#); [5200.1201](#); [5200.1203](#) (defining and communicating the accrual year, crediting ESST accruals, and reinstating ESST for a rehired employee).

⁴ Minn. Stat. [§ 181.9448, subd. 1, para. \(a\)](#); Minn. Rules, [part 5200.1209](#) (more generous ESST policies).

⁵ Minn. Stat. [§ 181.9447, subd. 5](#) (increment of time used); Minn. Rules, [part 5200.1202, subp. 3](#) (use of ESST for indeterminate shift).

⁶ Minn. Stat. [§ 181.9445, subds. 5 and 6](#) (defining "employee" and "employer" and exceptions under ESST law).

⁷ Minn. Stat. [§ 181.9448, subd. 1, paras. \(f\) and \(h\)](#) (employer waivers allowed under ESST law).

⁸ Minn. Stat. [§ 181.9447, subd. 12](#) (weather event exception).

Employee Use, Notice, and Documentation

Qualifying reasons to use ESST include: an employee or a family member's mental or physical illness, injury, or medical care; a funeral or bereavement-related need; a domestic abuse, sexual assault, or safety-related issue; a workplace or daycare closure; or an absence due to a weather or public emergency or a communicable illness.⁹

The law requires an employee to notify an employer of a foreseeable need to take ESST as provided by the employer's written notice policy.¹⁰ An employer's policy can require up to seven days of advance notice from the employee, and an employer may request reasonable documentation of a qualifying reason after two consecutive days. An employer can also request documentation when there is a pattern or clear example of an employee's suspected misuse.¹¹

If an employer allows employees to accrue more ESST than the 48-hour minimum, the documentation requirements for those hours can be waived through collective bargaining.¹²

Employee Protections

An employer cannot require an employee to find a replacement worker as a condition of using ESST, but an employee may voluntarily do so. During a period of ESST, an employee's job is protected, and the employer must continue the employee's existing health coverage and pay the employer's portion (the employee must still pay the employee portion).

The law prohibits retaliation or penalizing an employee under an employer's attendance policy for using or requesting ESST. Upon returning from ESST, an employee must receive the same pay or benefits including any seniority, accruals, and automatic adjustments. An employee may return from ESST on a part-time basis with the employer's agreement.¹³

Employee's Base Rate

An employer must pay an employee for ESST in an amount equal to the same "base rate" the employee earns while working. For an hourly employee, the base rate is the same rate the employee receives per hour of work. If an employee receives multiple hourly rates, the applicable rate is the rate the employee would have been paid for the period the leave is taken.

For a salaried employee, the base rate is the same rate guaranteed to the employee as if the employee had not taken leave. An employee paid solely on a commission, piecework, or any

⁹ Minn. Stat. [§ 181.9447, subd. 1](#) (eligible use); Minn. Rules, [part 5200.1205](#) (employee's choice to use ESST).

¹⁰ Minn. Stat. [§ 181.9447, subds. 2 and 3](#); Minn. Rules, [part 5200.1207](#) (notice and documentation requirements).

¹¹ Minn. Rules, [part 5200.1208, subp. 2](#) (suspected misuse of ESST).

¹² Minn. Stat. [§ 181.9448, subd. 1, para. \(g\)](#).

¹³ Minn. Stat. [§ 181.9447, subds. 4-8](#) (employment protections and other ESST requirements).

other basis other than hourly or salary must be paid no less than the applicable local, state, or federal minimum wage, whichever is greatest.¹⁴

Carryover Requirements

An employer must allow an employee to carry over up to 80 hours of accrued but unused ESST from year to year. Alternately, the law allows an employer to provide an employee with: (1) a bank of 48 hours of ESST for immediate use in the following year if the employer pays out the employee's accrued but unused ESST at the employee's regular hourly rate at the end of the year; or (2) a bank of 80 hours of ESST for immediate use in the following year if the employer does not pay out the employee's accrued but unused ESST at the end of the year. An employee receiving bankable ESST in lieu of a carryover will not accrue additional ESST for that year, unless the employer chooses to offer a more generous policy.¹⁵

Employer Responsibilities

ESST is paid for and administered by individual employers, and the law sets certain notice, confidentiality, and recordkeeping requirements for employers.¹⁶ Employers must notify employees of ESST requirements at the start of employment, including the yearly ESST accrual amount, the accrual year, the terms of use, and the employer's written policy outlining notice requirements to use ESST. An employer may use the sample uniform notice prepared by the Department of Labor and Industry (DLI) for this purpose available on [DLI's website](#).¹⁷

At the end of each pay period, the employer must also notify each employee of the total number of ESST hours available for use, and the total number of ESST hours the employee used that pay period. Additionally, if an employer has an employee handbook, it must include an ESST notice. Employers must maintain ESST records for three years and keep all personal health and safety information confidential.

Enforcement

The Minnesota Department of Labor and Industry (DLI) is responsible for enforcing the ESST through its compliance authority, including oversight of the employment protections and recordkeeping provisions.¹⁸ If an employee uses ESST for a purpose other than a qualifying reason under the law, that is considered misuse.¹⁹ DLI must also submit an annual report to the

¹⁴ Minn. Stat. [§ 181.9445, subd. 4a](#) (defining an employee's "base rate" under ESST law).

¹⁵ Minn. Stat. [§ 181.9446, para. \(b\)](#) (carryover requirement or advancing hours of ESST); [181.9448, subd. 1, para. \(i\)](#) (advancing ESST based on anticipated hours); Minn. Rules, [part 5200.1204](#) (accrual and advancing methods).

¹⁶ Minn. Stat. [§ 181.9447, subds. 9, 10, and 11](#) (employer notice, recordkeeping, and confidentiality requirements).

¹⁷ https://www.dli.mn.gov/sites/default/files/pdf/ESST_sample_notice.pdf.

¹⁸ Minn. Stat. [§ 177.27, subd. 4](#) (DLI compliance authority).

¹⁹ Minn. Rules, [part 5200.1208](#) (misuse of ESST).

legislature on ESST violations and noncompliance. The law also authorizes DLI to adopt rules for ESST and to issue community outreach and education grants.²⁰

In addition, the law allows an employee to sue an employer to recover individual damages for an ESST violation. If an employer fails to meet requirements for ESST use, accruals, or recordkeeping, the employer is liable to all employees impacted for the full amount that should have been provided, plus an equal amount of liquidated damages.²¹

Interaction with PFML and Other Leaves

ESST is distinct from the Minnesota Paid Leave law (PFML) under [Minnesota Statutes, chapter 268B](#).²² Most employers in the state are covered by both the ESST and PFML laws and must meet the requirements for both. Unlike ESST, which is administered and paid by the individual employer, PFML is a state benefits program administered by the Department of Employment and Economic Development (DEED) and paid from state funds.

Both laws provide employees with paid time off work for qualified family or medical reasons, but each law has different definitions and eligibility, use, and documentation requirements. ESST is more like a traditional sick or paid-time off policy that can be accrued and used for short or long-term qualifying reasons. The PFML law requires a seven-day qualifying period for all family and medical leaves other than bonding.²³ And an employee may qualify for up to 12 weeks of family or medical leave a year or up to 20 weeks for both types. Both laws allow an employer to provide additional leave or benefits through an internal employment policy.

ESST, PFML, and other state and federal leave laws, such as FMLA, interact, and time off under one may overlap or run at the same time as another. Whether leaves run concurrently depends on the applicable law, individual employee's situation, and the employer's leave policies.²⁴ Contact DEED, DLI,²⁵ or an attorney for more information. See also the House Research and House Fiscal Analysis publication, *Minnesota Paid Family and Medical Leave (PFML)*.



Minnesota House Research Department provides nonpartisan legislative, research, and legal services to the Minnesota House of Representatives. This document can be provided in other formats.

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²⁰ Minn. Stat. [§ 177.50, subds. 3, 4, and 6](#) (DLI grants, legislative report, and rulemaking).

²¹ Minn. Stat. [§ 177.50, subds. 2 and 7](#) (employee remedies).

²² The law is also referred to as Minnesota Paid Family and Medical Leave or PFML.

²³ Minn. Stat. [§ 268B.06, subd. 2](#).

²⁴ Minn. Stat. [§§ 181.943; 181.9448](#); and [268B.27](#) (interaction of ESST, PFML, FMLA, and other leave laws).

²⁵ More information on ESST can be found at DLI's website: <https://www.dli.mn.gov/sick-leave>; by phone: 651-284-5075; or by email: esst.dli@state.mn.us. More information on PFML can be found at DEED's website: paidleave.mn.gov; by phone: 651-556-7777; or by email: paidleave@state.mn.us.