Legal Update

Minnesota

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The Power to Compete

Minnesota Adopts New Rules for Earned Sick and Safe Time

Minnesota recently adopted new rules to implement its earned sick and safe time (ESST) law. The rules address, among other things, employee eligibility, accrual years, how to credit accrual, increments of ESST, use, incentives, reasonable documentation, and more generous sick and safe time policies. The rules are effective as of July 6, 2026.

Background

ESST is paid leave that covered employers must provide to eligible 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. Employers with at least one employee are generally covered by the law.

New Rules

The new rules contain a number of ESST provisions, including the following.

Employee Eligibility

Employees are generally eligible for ESST if the employer anticipates they will work at least 80 hours in a year in Minnesota for that employer.

The new rules clarify that an employer **must determine in good faith** whether an employee is anticipated to perform work for at least 80 hours in a year for that employer in Minnesota. **Good faith** means the employer, at a minimum, **evaluated the employee's anticipated work schedule and location of hours worked** in a manner that is not knowingly false or in reckless disregard of the truth. The rules provide that employees anticipated to work **or who actually work** such hours must receive ESST.

Accrual Years

In general, under the Minnesota ESST law, beginning at the start of employment, employees accrue one hour of ESST for every 30 hours worked, up to a maximum of **48 hours per year** (unless the employer agrees to a higher amount). **Year** means a regular and consecutive 12-month period, as determined by the employer and clearly communicated to employees.

According to the new rules, if an employer does **not** designate and clearly communicate the accrual year to each employee, the accrual year is a **calendar year**.

Highlights

Minnesota recently adopted new rules to implement its ESST law. The rules address, among other things:

- Employee eligibility;
- Accrual years;
- How to credit accrual;
- Increments of ESST;
- Use;
- Incentives;
- Reasonable documentation; and
- More generous sick and safe time policies.

The rules are effective as of July 6, 2026.

Provided by **Employco USA, Inc.**

How to Credit Accrual, Increments

In general, employees accrue one hour of ESST for every 30 hours worked. The new rules state that ESST must be credited to an employee for each pay period based on all hours worked, **no later than the regular payday** after the end of each corresponding pay period. ESST is considered accrued when the employer credits the time to the employee.

Also, employers are **not** required to credit employees with less than **hour-unit** increments of ESST accrued under the law.

Use

The new rules clarify that it is an employee's right to use ESST for a qualifying purpose; employers may **not** require employees to use ESST. However, an employee's leave is **not protected** under the ESST law when the employee **requests not to use ESST** for an absence from work (but there may be another law that protects the leave).

Incentives

The ESST law bars employers from allowing ESST use to count against employees as part of an absence control policy or attendance point system. However, according to the new rules, if a bonus, reward or other incentive is based on the achievement of a specified goal—such as hours worked, products sold or perfect attendance—and the employee has **not** met the goal due to use of ESST, then the incentive **may be denied**, unless otherwise paid to employees on any other leave status.

Reasonable Documentation

Under the Minnesota ESST law, employers may require documentation from employees that ESST of more than two consecutive scheduled work days was used for a qualified reason. The type of documentation that may be requested varies depending on the reason for leave.

The new rules state that, for uses of ESST for which an employer may require reasonable documentation, an employee who does not provide such documentation is **not protected** under the ESST law. Any requirement for reasonable documentation must be **clearly communicated** to the employee, and the employee must be given a **reasonable amount of time** to provide the documentation.

More Generous Sick and Safe Time Policies

The ESST law specifies that it does not discourage employers from adopting or retaining ESST policies that meet or exceed, and do not otherwise conflict with, the law's minimum standards and requirements. All paid time off (PTO) and other paid leave made available to an employee in excess of the minimum amount required in the law for absences from work due to personal illness or injury—but **not** including short-term or long-term disability or **other salary continuation benefits**—must meet or exceed the minimum standards and requirements provided in certain sections of the ESST law.

The new rules clarify that excess PTO and other paid leave made available to an employee, as noted above, is subject to the minimum standards and requirements provided in certain sections of the ESST law **only when the leave is used for a qualifying purpose**. In addition, **other salary continuation benefits** noted above **include Minnesota Paid Leave** (which is thus **excluded** from being subject to the ESST minimum standards and requirements, as indicated above).

Next Steps for Employers

The new rules contain other provisions, such as indeterminate shifts and misuse of ESST. Minnesota has also released FAQs about the rules. Minnesota employers should consider thoroughly reviewing the rules and FAQs to ensure they are in compliance with all applicable provisions. Employers needing additional assistance should contact local counsel for specific legal advice.