



Legal Update Article

Saint Paul Changes Earned Sick and Safe Time Ordinance as Second City to Align With Minnesota's Leave Law

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Employers in Minnesota are not the only ones gearing up for [Minnesota's earned sick and safe time \(ESST\) law](#) to take effect on January 1, 2024. Cities in Minnesota are also making changes to their respective earned sick and safe time ordinances. Saint Paul's City Council unanimously adopted amendments to its Earned Sick and Safe Time Ordinance to align its legislative code with Minnesota's ESST law. The amendments, [Ordinance 23-48](#), will go in effect on January 1, 2024.

Saint Paul's Department of Human Rights and Equal Economic Opportunity (HREEO) pushed for revisions to the City's ESST Ordinance to streamline compliance with the City Ordinance and state law. Proponents of the revisions predict alignment will simplify enforcement, facilitate business growth in Saint Paul, and ensure workers can secure the benefits of both the Ordinance and state law.

Changes to Coverage

Saint Paul narrowed its definition of employees covered by the Ordinance. An employee is defined as any person employed by an employer, including temporary and part-time employees, who performs work for at least 80 hours in a year for that employer in Minnesota. Covered employees no longer include flight deck or cabin

crew members employed by an air carrier who (1) work less than the majority of their hours in Saint Paul in each calendar year and (2) receive paid leave equal to or exceeding the amounts set by the Ordinance.

The amendments clarify that a covered employer includes a staffing agency that provides at least one temporary employee working in the geographic boundaries of Saint Paul for at least 80 hours in a calendar year through the staffing agency.

Increased Access to ESST

Saint Paul expanded its definition of a “family member” to match Minnesota’s ESST legislation. A “family member” includes an employee’s relative, the relative of their spouse or registered domestic partner, any other individual with a close relation with the employee, and up to one individual annually designated by the employee. The HREEO [explained](#) that this updated definition is intended to reflect the reality of family dynamics today by allowing, for example, an employee to use ESST to care for their fiancé.

Revisions to the Ordinance newly allow an employee to use ESST for leave related to making their home safer, along with relocating, as a result of domestic abuse, sexual assault, or stalking.

The Ordinance also permits remote and in-person workers to take leave when a healthcare professional or authority determines an employee or their family member is at risk of infecting others with a communicable disease.

Earned sick and safe time can be used for an employee or their family member’s mental or physical illness, treatment, or preventive care; absence due to domestic abuse, sexual assault or stalking of an employee or their family member; closure of an employee’s workplace due to weather or public emergency or closure of their 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 an employee or their family member is at risk of infecting others with a communicable disease.

The revisions also remove the 90-day waiting period. Further, employers must permit employees to use accrued ESST at any time after accrual. Employers must also permit employees to use ESST in the smallest increment of time tracked by the employer’s payroll system, so long as such increment is no more than four hours.

Modified Frontloading Requirements

The revisions amend the accrual and frontloading requirements to mirror the state law. However, the Saint Paul Ordinance uniquely mandates employers who choose

to frontload sick and safe time (rather than permit carryover of accrued but unused time) apply the same method of frontloading to all employees. This new provision does not exist in similar Minnesotan municipal ordinances or the Minnesota state law. The practical effect is that Saint Paul employers cannot apply different sick and safe time accrual and carryover methods to full and part-time employees.

Documentation, Notice Mandates

To increase employee awareness of the ESST Ordinance, the amendments impose additional responsibilities on employers to notify employees of their rights under the Ordinance. Employers must provide notice of the Ordinance to all employees and the notice must be in the employee's primary language.

Employers can satisfy their notice requirements by providing employees notice of the required information by:

1. Posting a copy of the notice at each location where employees perform work and where the notice must be readily observed and easily reviewed by all employees performing work;
2. Providing a paper or electronic copy of the notice directly to the employees; or
3. A conspicuous posting in a web- or app-based platform through which employees perform work.

These notices must be provided to all employees at the start of their employment or by January 1, 2024.

Like the statewide law, the amendments require employers to provide an earnings statement at the end of each pay period showing the ESST amounts accrued, used, and available during the pay period. If employers would like to enforce a policy requiring advance notice to request sick and safe time, employers must provide employees a copy of such policy in writing.

Like Minnesota's ESST law, Saint Paul's amended Ordinance allows employers to require reasonable documentation to show their reason for leave qualifies only when an employee requests sick and safe time for more than three consecutive days. The amendments broadly define what constitutes reasonable documentation as including an employee's own signed statement written in their "first language." The amendments expressly prevent employers from requesting details related to domestic abuse, sexual assault, stalking, or medical conditions related to an employee's request to use sick and safe time.

Furthermore, employers may not consider an employee's use of ESST when tracking attendance to administer an absence control policy or attendance point system. The HREEO reasoned these changes to ESST documentation reduce barriers to employees using sick and safe time while preventing misuse of leave.

Next Steps

The statewide ESST law will not preempt existing local paid sick and safe leave ordinances currently in effect in Bloomington, Duluth, Minneapolis, or Saint Paul. Given that [Bloomington](#) and Saint Paul have amended their ordinances to align with Minnesota's state statute, we are monitoring Duluth and Minneapolis for similar changes.

Covered employers should review their policies to ensure compliance with the amendments to Saint Paul's ESST Ordinance. If you have questions about the mandatory employee leave laws in Minnesota or around the country, please reach out to the Jackson Lewis attorney with whom you often work, or any member of our Disability, Leave and Health Management team.

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