

Subject Earned sick and safe (ESS) time

Authors Lesch and others

Analyst Ben Weeks

Date April 1, 2019

## Article 1: Earned Sick and Safe Time

Section	Description - Article 1: Earned Sick and Safe Time
---------	--

1	<b>Earned sick and safe (ESS) time [§ 181.9445]</b>
---	---

**Subd. 1. Definitions.** Provides definitions for section 1. Notably, “employee” is defined as anyone who has worked at least 80 hours in a year for an employer.

**Subd. 2. Accrual of earned sick and safe time.** Requires employers to allow employees to earn, at a minimum, one hour of paid, ESS time for every 30 hours worked, up to at least 48 hours per year. Employees must be able to carry over at least 80 accrued hours of ESS time from year to year. Accrual begins when a qualified employee begins employment, but an employee may not begin using ESS time until they have worked for the employer for a period of 90 calendar days. Salaried employees, who are exempt from the provisions of federal overtime laws, are deemed to work 40 hours per week for purposes of ESS accrual.

**Subd. 3. Use of ESS time.** Provides the conditions under which an employee may use ESS time. These include: (1) the employee’s illness or preventative care; (2) care of a sick family member or family member in need of preventative care; (3) absence related to domestic abuse, sexual assault, or stalking of the employee or family member; (4) 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 (5) a determination by a health care provider that the employee or family member is at risk of infecting others with a communicable disease.

This subdivision also allows an employer to require reasonable notice of up to seven days when the need for ESS time is foreseeable and to require an employee to provide documentation justifying use of three or more consecutive days of ESS time. Employers are prohibited from making employees find replacement workers as a condition of ESS time.

**Subd. 4. Retaliation prohibited.** Prohibits an employer from retaliating against an employee for taking ESS time or for exercising another right under this section.

**Section**      **Description - Article 1: Earned Sick and Safe Time**

---

**Subd. 5. Reinstatement to comparable position after leave.** Requires an employer to reinstate an employee in the same or comparable position after return from use of ESS time.

**Subd. 6. Pay and benefits after leave.** Requires an employer to provide the same pay or benefits to an employee returning from use of ESS time.

**Subd. 7. Part-time return from leave.** Provides that an employee returning to work, on a part-time basis by agreement with the employer, after use of ESS time, gets the same benefits of reinstatement as an employee returning full time.

**Subd. 8. Notice and posting by employer.** Requires employers to post notice of employee rights under this section and provide similar notice to employees at commencement of employment or the effective date of this bill.

**Subd. 9. Required statement to employee.** Requires an employer, upon employee request, to provide a statement including the amount of ESS time available to the employee and the amount of ESS time used by the employee.

**Subd. 10. Employer records.** Requires an employer to keep records about ESS accrual and use, and allows an employee to view that employee's records.

**Subd. 11. Confidentiality and nondisclosure.** Sets requirements for confidential treatment of employee records collected in relation to ESS time.

**Subd. 12. No effect on more generous sick and safe time policies.** Clarifies that nothing in this section prohibits an employer from providing more generous leave policies than the minimum floor required by the bill.

**Subd. 13. Termination; separation; transfer.** Provides that employers are not required to pay out any accrued ESS time on termination. An employee transferred within a single employer retains accrued ESS time and an employee hired back by the same employer within 180 days of termination is entitled to reinstatement of accrued ESS time.

**Subd. 14. Employer succession.** Provides for the rights of accrued ESS time when ownership of an employer transfers. Employees generally have the right to their accrued ESS time when this happens.

2

**Repealer.**

Repeals the section of law that allows employees to use employer provided sick days to care for a sick relative or deal with the repercussions of domestic abuse, sexual assault, or stalking.

## Article 2: Earned Sick and Safe Time Enforcement

Section	Description – Article 2: Earned Sick and Safe Time Enforcement
1	<p><b>Submission of records; penalty [§ 177.27, subd. 2]</b></p> <p>Increases the maximum penalty for employers who fail to submit required records to the Department of Labor and Industry from \$1,000 to \$10,000 per violation.</p>
2	<p><b>Compliance orders [§ 177.27, subd. 4]</b></p> <p>Adds earned sick and safe time to the list of laws that the Department of Labor and Industry may enforce through compliance orders.</p>
3	<p><b>Employer liability [§ 177.27, subd. 7]</b></p> <p>Increases the maximum civil penalty, from \$1,000 to \$10,000 for employers who violate any of the sections over which the Department of Labor and Industry has enforcement authority under section 177.27, subdivision 4.</p>
4	<p><b>ESS time enforcement [§ 177.50]</b></p> <p><b>Subd. 1. Definitions.</b> Provides that the same definitions from article 1 apply to this article.</p> <p><b>Subd. 2. Rulemaking authority.</b> Allows the commissioner of labor and industry to adopt rule under this section as well as under section created by article 1, section 181.9445.</p> <p><b>Subd. 3. Individual remedies.</b> Allows an employee affected by an employer violation of the ESS provisions to bring a civil law suit in court.</p> <p><b>Subd. 4. Grants to community organizations.</b> Allows DLI to make grants to community organizations for outreach and education about the ESS provisions.</p> <p><b>Subd. 5. Report to legislature.</b> Requires an annual report to the legislature, from DLI, addressing violations of the ESS provisions and trends in violations by industry or geography.</p> <p><b>Subd. 6. Contract for labor or services.</b> Prohibits an employer knowingly contracting with an entity that has violated this section within the last two years.</p>



**MN HOUSE  
RESEARCH**

*Minnesota House Research Department provides nonpartisan legislative, legal, and information services to the Minnesota House of Representatives. This document can be made available in alternative formats.*

www.house.mn/hrd | 651-296-6753 | 600 State Office Building | St. Paul, MN 55155