

**SENATE  
STATE OF MINNESOTA  
NINETY-THIRD SESSION**

**S.F. No. 5135**

(SENATE AUTHORS: DRAHEIM)

DATE  
03/20/2024

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12452 Introduction and first reading  
Referred to Labor

OFFICIAL STATUS

1.1 A bill for an act  
1.2 relating to employment; modifying earned sick and safe time; amending Minnesota  
1.3 Statutes 2023 Supplement, sections 177.50, by adding a subdivision; 181.9445,  
1.4 subdivisions 4, 5, 7; 181.9446; 181.9447, subdivisions 2, 3, 9.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2023 Supplement, section 177.50, is amended by adding a  
1.7 subdivision to read:

1.8 Subd. 6. **Penalty waiver.** The department shall not impose any monetary penalty for an  
1.9 initial violation of earned sick and safe time requirements under sections 181.9445 to  
1.10 191.9448 until after January 1, 2025.

1.11 Sec. 2. Minnesota Statutes 2023 Supplement, section 181.9445, subdivision 4, is amended  
1.12 to read:

1.13 Subd. 4. **Earned sick and safe time.** (a) Except as provided in paragraphs (b) and (c),  
1.14 "earned sick and safe time" means leave, including paid time off and other paid leave  
1.15 systems, that is paid at the same hourly rate as an employee earns from employment that  
1.16 may be used for the same purposes and under the same conditions as provided under section  
1.17 181.9447, but in no case shall this hourly rate be less than that provided under section 177.24  
1.18 or an applicable local minimum wage.

1.19 (b) For an employer with 25 or fewer full-time equivalent employees, earned sick and  
1.20 safe time is paid at half of the hourly rate as an employee earns from employment.

1.21 (c) During an employer's first 12-consecutive months of operation, the employer may,  
1.22 but is not required to, provide paid earned sick and safe time.

2.1 Sec. 3. Minnesota Statutes 2023 Supplement, section 181.9445, subdivision 5, is amended  
2.2 to read:

2.3 Subd. 5. **Employee.** "Employee" means any person who is employed by an employer,  
2.4 including temporary and part-time employees, who performs work for at least 80 hours in  
2.5 a year for that employer in Minnesota. Employee does not include:

2.6 (1) an independent contractor; ~~or~~

2.7 (2) an individual employed by an air carrier as a flight deck or cabin crew member who:

2.8 (i) is subject to United States Code, title 45, sections 181 to 188;

2.9 (ii) works less than a majority of their hours in Minnesota in a calendar year; and

2.10 (iii) is provided with paid leave equal to or exceeding the amounts in section 181.9446;

2.11 (3) a minor under the age of 18;

2.12 (4) an employee who works an average of 25 hours or fewer per normal workweek;

2.13 (5) a seasonal worker who works for 20 weeks or fewer in a consecutive 12-month  
2.14 period;

2.15 (6) an employee who works fewer than 520 hours in a consecutive 12-month period;

2.16 (7) an employee who works on a per diem or intermittent basis who:

2.17 (i) only works when the employee indicates they can work;

2.18 (ii) is under no obligation to accept work for the employer offering work; and

2.19 (iii) has no expectation of continuing employment with the employer; or

2.20 (8) an owner, or a child, spouse or domestic partner, parent, grandparent, grandchild, or  
2.21 sibling of the owner.

2.22 Sec. 4. Minnesota Statutes 2023 Supplement, section 181.9445, subdivision 7, is amended  
2.23 to read:

2.24 Subd. 7. **Family member.** (a) "Family member" means, with respect to an employee:

2.25 ~~(1) an employee's:~~

2.26 ~~(i)~~ (1) a child, including a biological, adopted, or foster child, adult child, legal ward, a  
2.27 stepchild, or a child for whom the employee is legal guardian, or child to whom the employee  
2.28 stands ~~or stood~~ in loco parentis;

2.29 ~~(ii)~~ (2) a spouse or registered domestic partner;

- 3.1 ~~(iii) (3) a sibling, stepsibling, or foster sibling;~~
- 3.2 ~~(iv) biological, adoptive, or foster (4) a parent, stepparent, or a person who stood in loco~~
- 3.3 ~~parentis when the employee was a minor child;~~
- 3.4 ~~(v) (5) a grandchild, foster grandchild, or stepgrandchild; or~~
- 3.5 ~~(vi) (6) a grandparent or stepgrandparent;~~
- 3.6 ~~(vii) a child of a sibling of the employee;~~
- 3.7 ~~(viii) a sibling of the parents of the employee; or~~
- 3.8 ~~(ix) a child-in-law or sibling-in-law;~~
- 3.9 ~~(2) any of the family members listed in clause (1) of a spouse or registered domestic~~
- 3.10 ~~partner;~~
- 3.11 ~~(3) any other individual related by blood or whose close association with the employee~~
- 3.12 ~~is the equivalent of a family relationship; and~~
- 3.13 ~~(4) up to one individual annually designated by the employee.~~

3.14 (b) For the purposes of sections 177.50 and 181.9445 to 181.9448, the following terms

3.15 have the meanings given them:

- 3.16 (1) "grandchild" means a child of the employee's child;
- 3.17 (2) "grandparent" means a parent of the employee's parent; and
- 3.18 (3) "parent" means the biological, adoptive, or foster parent, stepparent, or legal guardian
- 3.19 of an employee or the employee's spouse, or an individual who stood in loco parentis to an
- 3.20 employee when the employee was a minor child.

3.21 Sec. 5. Minnesota Statutes 2023 Supplement, section 181.9446, is amended to read:

3.22 **181.9446 ACCRUAL OF EARNED SICK AND SAFE TIME.**

3.23 (a) An employee accrues a minimum of one hour of earned sick and safe time for every

3.24 ~~30~~ 40 hours worked up to a maximum of 48 hours of earned sick and safe time in a year.

3.25 Employees may not accrue more than 48 hours of earned sick and safe time in a year unless

3.26 the employer agrees to a higher amount.

3.27 (b)(1) Except as provided in clause (2), employers must permit an employee to carry

3.28 over accrued but unused sick and safe time into the following year. The total amount of

3.29 accrued but unused earned sick and safe time for an employee must not exceed 80 hours at

3.30 any time, unless an employer agrees to a higher amount.

4.1 (2) In lieu of permitting the carryover of accrued but unused sick and safe time into the  
4.2 following year as provided under clause (1), an employer may provide an employee with  
4.3 earned sick and safe time for the year that meets or exceeds the requirements of this section  
4.4 that is available for the employee's immediate use at the beginning of the subsequent year  
4.5 as follows: (i) 48 hours, if an employer pays an employee for accrued but unused sick and  
4.6 safe time at the end of a year at the same hourly rate as an employee earns from employment;  
4.7 ~~or~~ (ii) 80 hours, if an employer does not pay an employee for accrued but unused sick and  
4.8 safe time at the end of a year at the same or greater hourly rate as an employee earns from  
4.9 employment. In no case shall this hourly rate be less than that provided under section 177.24,  
4.10 or an applicable local minimum wage-; or (iii) if an employee begins employment in the  
4.11 middle of an employer's 12-month consecutive year, the employer may satisfy the  
4.12 requirements of this section:

4.13 (A) by providing a prorated number of earned sick and safe time hours for immediate  
4.14 use based on the amount of days remaining in the employer's 12-month consecutive year;  
4.15 or

4.16 (B) on an accrual basis, as provided in paragraph (a).

4.17 (c) Employees who are exempt from overtime requirements under United States Code,  
4.18 title 29, section 213(a)(1), as amended through January 1, 2024, are deemed to work 40  
4.19 hours in each workweek for purposes of accruing earned sick and safe time, except that an  
4.20 employee whose normal workweek is less than 40 hours will accrue earned sick and safe  
4.21 time based on the normal workweek.

4.22 (d) earned sick and safe time under this section begins to accrue at the commencement  
4.23 of employment of the employee.

4.24 (e)(1) Except as provided in clause (2), employees may use earned sick and safe time  
4.25 as it is accrued.

4.26 (2) An employer may impose a waiting period of up to 90 days before earned sick and  
4.27 safe time may be used.

4.28 (f) For an employer with 25 or fewer full-time equivalent employees, accrual of earned  
4.29 sick and safe time under this section is paid at half of the hourly rate as an employee earns  
4.30 from employment.

4.31 (g) An employer may, but is not required to, provide paid earned sick and safe time  
4.32 during the employer's first 12-consecutive months of operation.

5.1 Sec. 6. Minnesota Statutes 2023 Supplement, section 181.9447, subdivision 2, is amended  
5.2 to read:

5.3 Subd. 2. **Notice.** (a) An employer may require notice of the need for use of earned sick  
5.4 and safe time as provided in this paragraph. If the need for use is foreseeable, an employer  
5.5 may require advance notice of the intention to use earned sick and safe time but must not  
5.6 require more than seven days' advance notice. If the need is unforeseeable, an employer  
5.7 may require an employee to give notice of the need for earned sick and safe time as soon  
5.8 as practicable. If the need is unforeseeable, the employee shall provide notice to the employer  
5.9 not less than two hours prior to when the employee is scheduled to work, except when the  
5.10 need to use earned sick and safe time arises while an employee is performing work. An  
5.11 employer that requires notice of the need to use earned sick and safe time in accordance  
5.12 with this subdivision shall have a written policy containing reasonable procedures for  
5.13 employees to provide notice of the need to use earned sick and safe time, and shall provide  
5.14 a written copy of such policy to employees. If a copy of the written policy has not been  
5.15 provided to an employee, an employer shall not deny the use of earned sick and safe time  
5.16 to the employee on that basis.

5.17 (b) Except for the use of accrued earned sick and safe time under subdivision 1, clause  
5.18 (3), an employee who fails to provide notice in accordance with the requirements of this  
5.19 subdivision is not entitled to be paid for any period of earned sick and safe time used for  
5.20 which no notice was provided to the employer. If a copy of the written policy has not been  
5.21 provided to an employee, an employer shall not deny pay for the use of earned sick and safe  
5.22 time to the employee on that basis.

5.23 Sec. 7. Minnesota Statutes 2023 Supplement, section 181.9447, subdivision 3, is amended  
5.24 to read:

5.25 Subd. 3. **Documentation.** (a) When an employee uses earned sick and safe time for  
5.26 more than three consecutive days, an employer may require reasonable documentation that  
5.27 the earned sick and safe time is covered by subdivision 1.

5.28 (b) For earned sick and safe time under subdivision 1, clauses (1), (2), (5), and (6),  
5.29 reasonable documentation may include a signed statement by a health care professional  
5.30 indicating the need for use of earned sick and safe time. However, if the employee or  
5.31 employee's family member did not receive services from a health care professional, or if  
5.32 documentation cannot be obtained from a health care professional in a reasonable time or  
5.33 without added expense, then reasonable documentation for the purposes of this paragraph  
5.34 may include a written statement from the employee indicating that the employee is using

6.1 or used earned sick and safe time for a qualifying purpose covered by subdivision 1, clause  
6.2 (1), (2), (5), or (6).

6.3 (c) For earned sick and safe time under subdivision 1, clause (3), an employer must  
6.4 accept a court record or documentation signed by a volunteer or employee of a victims  
6.5 services organization, an attorney, a police officer, or an antiviolence counselor as reasonable  
6.6 documentation.

6.7 (d) For earned sick and safe time to care for a family member under subdivision 1, clause  
6.8 (4), an employer must accept as reasonable documentation a written statement from the  
6.9 employee indicating that the employee is using or used earned sick and safe time for a  
6.10 qualifying purpose as reasonable documentation.

6.11 (e) An employer must not require disclosure of details relating to domestic abuse, sexual  
6.12 assault, or stalking or the details of an employee's or an employee's family member's medical  
6.13 condition as related to an employee's request to use earned sick and safe time under this  
6.14 section.

6.15 (f) Written statements by an employee may be written in the employee's first language  
6.16 and need not be notarized or in any particular format.

6.17 (g) An employee who fails to provide documentation in accordance with the requirements  
6.18 of this subdivision, or upon the request of the employer, is not entitled to be paid for any  
6.19 period of earned sick and safe time used for which no documentation was provided to the  
6.20 employer. The employer shall have a written policy containing reasonable procedures for  
6.21 an employee to provide documentation related to the use of earned sick and safe time in  
6.22 accordance with this subdivision, and shall provide a written copy of such policy to  
6.23 employees. The employer's written policy must allow for a reasonable period of time for  
6.24 the employee to provide documentation. If a copy of the written policy has not been provided  
6.25 to an employee, an employer shall not deny pay for the use of earned sick and safe time to  
6.26 the employee on that basis.

6.27 Sec. 8. Minnesota Statutes 2023 Supplement, section 181.9447, subdivision 9, is amended  
6.28 to read:

6.29 Subd. 9. **Notice and posting by employer.** (a) Employers must give notice to all  
6.30 employees that they are entitled to earned sick and safe time, including the amount of earned  
6.31 sick and safe time, the accrual year for the employee, the terms of its use under this section,  
6.32 and a copy of the written policy for providing notice as provided under subdivision 2; that  
6.33 retaliation against employees who request or use earned sick and safe time is prohibited;

7.1 and that each employee has the right to file a complaint or bring a civil action if earned sick  
7.2 and safe time is denied by the employer or the employee is retaliated against for requesting  
7.3 or using earned sick and safe time.

7.4 (b) Employers must supply employees with a notice in English and the primary language  
7.5 of the employee, as identified by the employee, that contains the information required in  
7.6 paragraph (a) at commencement of employment or January 1, 2024, whichever is later.

7.7 (c) The means used by the employer must be at least as effective as the following options  
7.8 for providing notice:

7.9 (1) posting a copy of the notice at each location where employees perform work and  
7.10 where the notice must be readily observed and easily reviewed by all employees performing  
7.11 work;

7.12 (2) providing a paper or electronic copy of the notice to employees; or

7.13 (3) a conspicuous posting in a web-based or app-based platform through which an  
7.14 employee performs work.

7.15 The notice must contain all information required under paragraph (a).

7.16 (d) An employer that provides an employee handbook to its employees must include in  
7.17 the handbook notice of employee rights and remedies under this section.

7.18 (e) The Department of Labor and Industry shall prepare a uniform employee notice form  
7.19 for employers to use that provides the notice information required under this section. The  
7.20 commissioner shall prepare the uniform employee notice in the five most common languages  
7.21 spoken in Minnesota. Upon the written request of an employer who is subject to this section,  
7.22 the commissioner shall provide a copy of the uniform employee notice in any primary  
7.23 language spoken by an employee in the employer's place of business. If the commissioner  
7.24 does not provide the copy of the uniform employee notice in response to a request under  
7.25 this paragraph, the employer who makes the request is not subject to a penalty for failing  
7.26 to provide the required notice under this subdivision for violations that arise after the date  
7.27 of the request. The department shall not impose any monetary penalty for an initial violation  
7.28 of this subdivision until after January 1, 2025.