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BLOGS

Employment Law Updates; Wage & Hour

Amendments to Minnesota's Earned Sick and Safe Time Act

On May 24, 2024, Minnesota Governor Tim Waltz signed legislation amending the Minnesota Earned Sick and Safe Time (ESST) law that went into effect earlier this year on January 1, 2024. As a recap, the ESST law requires that employers provide each employee who works at least 80 hours per year in Minnesota at least one hour of paid sick and safe time for every 30 hours worked, up to at least 48 hours of accrued ESST a year. The law permits accrual or frontloading methods for providing ESST, with different roll-over requirements of unused time depending on the method used.

While there are numerous amendments to the ESST law, most of which were effective May 25, 2024, the most notable changes are highlighted below:

Related People

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"Base Rate" Substituted for "Hourly Rate"

Prior Law	Amendment
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<p>ESST was to be paid "at the same hourly rate as the employee earns from employment."</p>	<p>Employees will be paid ESST at a rate equivalent to the employee's "base rate." Specifically:</p> <ul style="list-style-type: none"> · For employees paid an hourly rate, the "base rate" is the hourly rate the employee would have earned had the employee worked instead of taking ESST. · For employees paid on a salary basis, the "base rate" is the same rate guaranteed to the employee as if the employee had not taken the leave. · For employees paid solely on a commission, piecework, or any basis other than hourly or salary, the "base rate" must be a rate no less than the highest applicable minimum wage. <p>The "base rate" does not include commissions, shift differentials in addition to an hourly rate, overtime pay, premium payments for holidays or certain days of the week, bonuses, or gratuities.</p>
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Recording of Earned Sick and Safe Time Changed

Prior Law	Amendment
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<p>Employers were required to provide information about sick and safe time on employees' earning statements.</p>	<p>Employers are now required to provide each employee the total number of ESST hours available for use, and the total number of ESST hours used during the pay period on a "written or electronic record." If the record is electronic, an employer must allow employees to use an employer-owned device during working hours to access and print their ESST information.</p>
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Clarification of Covered Employees

Prior Law	Amendment
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<p>An employee who worked at least 80 hours in a year in the state of Minnesota was eligible for ESST.</p>	<p>An employee is eligible for ESST immediately upon employment, provided the employee is "anticipated to work" at least 80 hours in one year for the employer in Minnesota. The definition of employee has been re-defined and certain volunteer firefighters, elected officials, and temporary farm workers are now excluded.</p>
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Funeral Services or Memorials and Weather-Related Events

Prior Law	Amendment
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<p>Employees were permitted to take leave from work for medical, family care, safe leave, business and/or school closure, and public emergency leave reasons.</p>	<p>Employees are also now permitted to take leave to make arrangements for or to attend a funeral service or a memorial or to address financial or legal matters that arise after a family member's death. Employees may not use leave for weather-related events if an employee's work duties require them to respond to a weather event and the employee is a firefighter, peace officer, 911 telecommunicator, correctional facility guard, or public employee with a commercial driver's license under certain circumstances.</p>
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Increments of Use

Prior Law	Amendment
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Employers were required to provide ESST in the “smallest increment of time tracked by the employer’s payroll system.”

ESST may be used in the same increment of time for which employees are paid, but employers are not required to allow employees to use ESST in less than 15-minute increments. An employer cannot require use of ESST in more than four-hour increments.

Paid Leave for Personal Injury or Illness

Prior Law

Employers could use a more generous paid time off policy to comply with ESST, but the ESST law did not apply to the hours under that policy that exceeded the minimum required ESST hours .

Amendment

Employers who use a more generous paid time off policy to comply with the ESST law must allow employees to use all of the paid leave under the policy for ESST law reasons. In other word, all time used under the policy is subject to the ESST law protections. This requirement does not apply to any short-term or long-term disability or other salary continuation benefits. In addition, it does not apply to any paid leave accrued prior to Jan. 1, 2024.

The amendments also expand the remedies available to employees where ESST violations are found. For example, employers are liable for an amount equal to all ESST that should have been provided or could have been used, plus an equal amount of liquidated damages, if they fail to provide employees with or fail to permit employees to use ESST.

In light of these recent amendments, employers should review their existing ESST and leave policies and, if needed, make revisions to ensure compliance.