



Minneapolis, Duluth and Saint Paul Sick and Safe Time Ordinances July 24, 2019

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Minneapolis Paid Sick and Safe Time

Minneapolis Ordinance

Effective July 1, 2017, for all covered employers

Paid sick/safe leave if have more than 5 employees and unpaid sick leave if have 5 or fewer employees

Applies to employees who work 80+ hours in Minneapolis for an employer based in Minneapolis



Minneapolis Paid Sick and Safe Time

Accrual & Rollover

- Covered employee accrues one hour of job-protected sick/safe leave time for every 30 hours worked in city (in whole hour increments)
- Employer may front-load hours at start of year
- Employer may cap accrual at 48 hours per year
- Employees must be able to rollover up to 80 hours of accrued, unused time from year to year
- Employees must be able to start accruing immediately and to use accrued time after completing 90 days of employment





Minneapolis Paid Sick and Safe Time

Non-Resident Employers

- Enforcement for non-resident employers began July 3, 2019
- A “non-resident” employer may deduct an employee’s actual use of paid time off or leave since July 1, 2017, from the amount of accrual for that employee required under the Sick and Safe Time ordinance if the employer is now adapting its plan to comply with ordinance requirements



Minneapolis Paid Sick and Safe Time

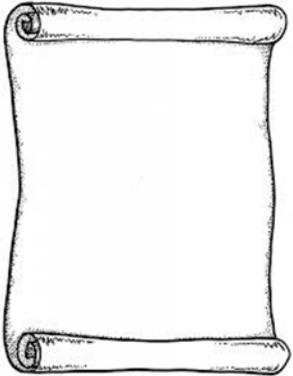
Use of Accrued Time

- Employee must be permitted to use accrued time for:
 - Employee's medical care;
 - Care for employee's family members;
 - Absences due to domestic abuse, sexual assault, or stalking of the employee/family;
 - Care for children whose school/daycare center is unexpectedly closed; and
 - Closure of employee's place of business for public health reasons.
- Employers can permit employees to use time for more reasons (such as under a PTO policy)



Minneapolis Paid Sick and Safe Time

Recordkeeping



- Employer must keep records showing hours worked in city (or all hours worked), accrual, and usage
- Employer bears the ultimate burden to prove employees do not qualify for paid sick/safe time
- Upon request, employer must provide employees' information on current accrual and use of sick/safe time



Minneapolis Paid Sick and Safe Time

Notice & Penalties

- Employers are required to provide employees' notice of paid sick and safe time leave
- Potential penalties include:
 - Reinstatement and back wages;
 - Cost of leave entitlement;
 - Monetary fines;
 - Attorneys' fees/costs; and
 - Loss of city business license
- 1 year statute of limitations





Minneapolis Paid Sick and Safe Time

Rules & Guidance

- Minneapolis has rules implementing the ordinance, which were last revised July 3, 2019
- FAQs and other guidance for employer on city website
- <http://sicktimeinfo.minneapolismn.gov/>



Minneapolis Paid Sick and Safe Time

Policy Checkup & Implementation

- Employers should check current paid time off/sick leave policies to determine:
 - If they comply in full or require revision;
 - If employer wishes to provide more generous benefits for employees; and
 - If they wish to limit any new Minneapolis/St. Paul benefits to eligible employees or extent to other employees for administrative ease.



Duluth Sick and Safe Time Ordinance

Effective January 1, 2020

Covered Employers

All employers with 5 or more employees, regardless of whether their employees actually work in Duluth.





Duluth Sick and Safe Time Ordinance

Covered Employees

Any person who performs work within the city of Duluth:

1. For more than 50% of the employee's working time in a 12-month period; or
2. Is based in the city of Duluth and spends a substantial part of his or her time working in the city and does not spend more than 50% of their work time in a 12-month period in any other particular place.



Duluth Sick and Safe Time Ordinance

Exemptions

- Independent contractors
- Student interns
- Seasonal employees
- Any person entitled to benefits under the federal Railroad Unemployment Insurance Act
- Construction companies who pay at least the prevailing wage



Duluth Sick and Safe Time Ordinance – Effective January 1, 2020

Rate of Accrual

- Earned at a rate of one hour per 50 hours worked, for a maximum of 64 hours per year.
- Can carry forward at least 40 hours to the next year.
- Employees begin accruing SST on their first day of employment, or once the ordinance goes into effect.
- Employees can begin using up to 40 hours of accrued SST after 90 days of employment.



Duluth Sick and Safe Time Ordinance

Alternative Method

Providing employees with 40 hours of SST up front after 90 days of employment, and an additional 40 hours of SST up front at the beginning of each subsequent year.

Separation

Employers **do not** have to pay out accrued SST upon separation of employment.



Duluth Sick and Safe Time Ordinance

Use of Accrued SST

- Absences to care for the employee's mental or physical illness, injury, or health conditions, as well as domestic abuse, sexual assault, or stalking, and for the care of family members suffering from the same conditions.
- Employers may require employees to comply with their customary notice and procedural requirements for absences and requesting SST so long as they do not interfere with the purposes for which the employees need the leave.
- For absences of more than three consecutive days, employers may require reasonable documentation to establish that the sick and safe leave is for a covered purpose.



Duluth Sick and Safe Time Ordinance

Tracking of Employee Accrual and Use of Sick and Safe Time

The ordinance requires employers to:

- track their employees' SST balances;
- provide them with their earned and used sick leave balances upon request;
- provide employees with notice of their right to paid sick and safe leave and that retaliation against employees who request or use SST is prohibited;
- provide notice that each employee has the right to file a written complaint with the City Clerk if earned SST is denied by the employer or the employee is retaliated against.



Duluth Sick and Safe Time Ordinance

Miscellaneous

- If an employee is rehired within 90 days of separation by the same employer, previously unused accrued SST must be reinstated.
- If an employee is transferred to a different division, entity, or location with the city, but remains employed by the same employer, the employee is entitled to all SST accrued at the previous division, entity, or location.
- When a different employer succeeds an existing employer, all employees who remain at the new employer are entitled to all unused SST accrued when employed by the previous employer.



Duluth Sick and Safe Time Ordinance

Enforcement

Complaints can be filed with the City Clerk's office. The City Clerk has the discretion to decide whether to investigate.



Duluth Sick and Safe Time Ordinance

Enforcement

If investigated, the City Clerk will issue a written determination of violation with findings of fact.

Among the possible remedies:

- reinstatement and backpay
- crediting of SST
- payment of accrued SST unlawfully withheld
- administrative penalty



Duluth Sick and Safe Time Ordinance

Enforcement

An employee or employer can appeal the determination in writing within 15 days of the date of service of the determination.

Failure to timely appeal shall be an admission to the violation.

Upon appeal, the chief administrative officer will hear the appeal, which may include a hearing.



Comparison of Saint Paul and Minneapolis Sick and Safe Time Ordinances

	St. Paul Ordinance	Minneapolis Ordinance
Covered Employers	<ol style="list-style-type: none">1. Maintain a physically permanent location in St. Paul; <u>and</u>2. Employ one or more employees that work at least 80 hours or more in a reporting year (any consecutive 12-month period) in St. Paul	All Employers with at least one employee working within the city limits of Minneapolis.



Comparison of Saint Paul and Minneapolis Sick and Safe Time Ordinances

	Saint Paul Ordinance	Minneapolis Ordinance
Exemptions for Employers	<p>Employer does not include:</p> <ol style="list-style-type: none">1. U.S. government;2. State of Minnesota;3. Any county or local government except the City of Saint Paul.	<p>Employer with 5 or fewer employees must provide time off, but may be unpaid. Employers with more than 5 employees must provide paid time.</p> <p>Employer does not include:</p> <ol style="list-style-type: none">1. U.S. government;2. State of Minnesota;3. Any county or local government except the City of Minneapolis.



Comparison of Saint Paul and Minneapolis Sick and Safe Time Ordinances

	Saint Paul Ordinance	Minneapolis Ordinance
New Employers	New employers established between the ordinance's effective date and January 1, 2023, have a six month grace period in which they may provide unpaid sick and safe time rather than paid sick and safe time.	New employers established within 5 years of the ordinance's effective date will be give a one-year grace period , during which they can provide unpaid sick leave rather than paid sick leave.



Comparison of Saint Paul and Minneapolis Sick and Safe Time Ordinances

	Saint Paul Ordinance	Minneapolis Ordinance
Covered Employees	Full-time, part-time, temporary employees, or paid on-call employees who work at least 80 hours per year within Saint Paul	Full-time, part-time, and temporary employees who work at least 80 hours per year within the city limits of Minneapolis.



Comparison of Saint Paul and Minneapolis Sick and Safe Time Ordinances

	Saint Paul Ordinance	Minneapolis Ordinance
Exempt Employees	<ul style="list-style-type: none">• Independent contractors• Construction industry workers who are paid “the prevailing wage rate” for all hours worked regardless of working on public or private projects• Construction apprentices who are registered with the Minnesota Department of Labor and Industry and are paid in accordance with prevailing apprentice wages.	<ul style="list-style-type: none">• Independent contractors• Construction industry workers who are paid “the prevailing wage rate” for all hours worked regardless of working on public or private projects.• Construction apprentices who are registered with the Minnesota Department of Labor and Industry and are paid in accordance with the prevailing apprentice wages.



Comparison of Saint Paul and Minneapolis Sick and Safe Time Ordinances

	Saint Paul Ordinance	Minneapolis Ordinance
Accrual Rate/Accrual Begins	At the beginning of employment, employees start earning one hour per 30 hours worked in St. Paul.	At the beginning of employment, employee start earning one hour per 30 hours worked within the City of Minneapolis.
Usage Begins	Employers can disallow use of accrued days until employees reach 90 th day of employment.	After first 90 days of employment.
Annual Accrual Cap	Up to a maximum of 48 hours per year	48 hours
Maximum Bank	Employers are not required to allow employees to hold more than 80 hours at any given time.	80 hours
Payment at Separation	Unused time does not need to be paid upon termination.	Unused time does not need to be paid upon termination.



Comparison of Saint Paul and Minneapolis Sick and Safe Time Ordinances

	Saint Paul Ordinance	Minneapolis Ordinance
Optional Alternative	Employers may front-load time by providing 48 hours or more to employees following 90 days of employment (the first year) and at least 80 hours each subsequent year.	<ul style="list-style-type: none">• Employers may front-load SST by providing 48 hours or more to employees following 90 days of employment (the first year) and at least 80 hours of SST each subsequent year.• Through the collective bargaining process, employers and represented workers can develop alternative means of meeting the paid leave requirements established by this ordinance.



Comparison of Saint Paul and Minneapolis Sick and Safe Time Ordinances

	Saint Paul Ordinance	Minneapolis Ordinance
Notice Requirement	<ul style="list-style-type: none">• Employers must provide notice to employees that they are entitled to time off in a conspicuous place where all employees are likely to see it.• Employers are required to disclose information related to employee rights and remedies dictated by the ordinance in any handbooks distributed to employees.• At employee's request, must provide information regarding amount of accrued time available.	<ul style="list-style-type: none">• Employers must display a required poster in a conspicuous place at any workplace or job site in any languages spoken by 5% or more of employees at the workplace or job site.• Employers are required to disclose information related to employee rights and remedies dictated by the ordinance in any handbooks distributed to employees.• At employee's request, must provide information regarding amount of accrued time available.
Documentation	Employers can require documentation for absences longer than 3 days.	Employers can require documentation for absences longer than 3 days.



Comparison of Saint Paul and Minneapolis Sick and Safe Time Ordinances

	Saint Paul Ordinance	Minneapolis Ordinance
Recordkeeping	Employers must retain records of employees' hours worked, accrued, and used SST for at least 3 years.	Employers have to retain records of employees' hours worked, accrued, and used SST for at least 3 years.



Comparison of Saint Paul and Minneapolis Sick and Safe Time Ordinances

St. Paul has online resources for employees and employers

<https://www.stpaul.gov/departments/human-rights-equal-economic-opportunity/contract-compliance-business-development/earned>