

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 3787

(SENATE AUTHORS: PAPPAS and McEwen)

DATE	D-PG	OFFICIAL STATUS
02/15/2024	11615	Introduction and first reading Referred to Labor

1.1

A bill for an act

1.2

relating to employees; modifying earned sick and safe time; authorizing rulemaking;

1.3

amending Minnesota Statutes 2023 Supplement, sections 177.27, subdivision 4;

1.4

177.50, by adding subdivisions; 181.032; 181.9445, subdivisions 4, 5; 181.9446;

1.5

181.9447, subdivisions 1, 3, 5, 10, 11; 181.9448, subdivisions 1, 2.

1.6

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

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Section 1. Minnesota Statutes 2023 Supplement, section 177.27, subdivision 4, is amended

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to read:

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Subd. 4. **Compliance orders.** The commissioner may issue an order requiring an

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employer to comply with sections 177.21 to 177.435, 177.50, 179.86, 181.02, 181.03,

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181.031, 181.032, 181.101, 181.11, 181.13, 181.14, 181.145, 181.15, 181.165, 181.172,

1.12

paragraph (a) or (d), 181.214 to 181.217, 181.275, subdivision 2a, 181.635, 181.722, 181.79,

1.13

181.85 to 181.89, 181.939 to 181.943, 181.9445 to 181.9448, 181.987, 181.991, 268B.09,

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subdivisions 1 to 6, and 268B.14, subdivision 3, with any rule promulgated under section

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177.28, 181.213, or 181.215. The commissioner shall issue an order requiring an employer

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to comply with sections 177.41 to 177.435, 181.165, or 181.987 if the violation is repeated.

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For purposes of this subdivision only, a violation is repeated if at any time during the two

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years that preceded the date of violation, the commissioner issued an order to the employer

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for violation of sections 177.41 to 177.435, 181.165, or 181.987 and the order is final or

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the commissioner and the employer have entered into a settlement agreement that required

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the employer to pay back wages that were required by sections 177.41 to 177.435. The

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department shall serve the order upon the employer or the employer's authorized

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representative in person or by certified mail at the employer's place of business. An employer

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who wishes to contest the order must file written notice of objection to the order with the

commissioner within 15 calendar days after being served with the order. A contested case proceeding must then be held in accordance with sections 14.57 to 14.69 or 181.165. If, within 15 calendar days after being served with the order, the employer fails to file a written notice of objection with the commissioner, the order becomes a final order of the commissioner. For the purposes of this subdivision, an employer includes a contractor that has assumed a subcontractor's liability within the meaning of section 181.165.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 2. Minnesota Statutes 2023 Supplement, section 177.50, is amended by adding a subdivision to read:

Subd. 6. Rulemaking authority. The commissioner may adopt rules to carry out the purposes of this section and sections 181.9445 to 181.9448.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 3. Minnesota Statutes 2023 Supplement, section 177.50, is amended by adding a subdivision to read:

Subd. 7. Remedies. (a) If an employer does not provide earned sick and safe time pursuant to section 181.9446, or does not allow the use of earned sick and safe time pursuant to section 181.9447, the employer is liable to all employees who were not provided or not allowed to use earned sick and safe time for an amount equal to all earned sick and safe time that should have been provided or could have been used at the employee's regular rate of pay, plus an additional equal amount as liquidated damages.

(b) If the employer does not possess records sufficient to determine the earned sick and safe time an employee should have been provided pursuant to paragraph (a), the employer is liable to the employee for an amount equal to 48 hours of earned sick and safe time at the employee's regular rate of pay for each year earned sick and safe time was not provided, plus an additional equal amount as liquidated damages.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 4. Minnesota Statutes 2023 Supplement, section 181.032, is amended to read:

181.032 REQUIRED STATEMENT OF EARNINGS BY EMPLOYER; NOTICE TO EMPLOYEE.

(a) At the end of each pay period, the employer shall provide each employee an earnings statement, either in writing or by electronic means, covering that pay period. An employer

who chooses to provide an earnings statement by electronic means must provide employee access to an employer-owned computer during an employee's regular working hours to review and print earnings statements, and must make statements available for review or printing for a period of three years.

(b) The earnings statement may be in any form determined by the employer but must include:

(1) the name of the employee;

(2) the rate or rates of pay and basis thereof, including whether the employee is paid by hour, shift, day, week, salary, piece, commission, or other method;

(3) allowances, if any, claimed pursuant to permitted meals and lodging;

(4) the total number of hours worked by the employee unless exempt from chapter 177;

~~(5) the total number of earned sick and safe time hours accrued and available for use under section 181.9446;~~

~~(6) the total number of earned sick and safe time hours used during the pay period under section 181.9447;~~

~~(7)~~ (5) the total amount of gross pay earned by the employee during that period;

~~(8)~~ (6) a list of deductions made from the employee's pay;

~~(9)~~ (7) any amount deducted by the employer under section 268B.14, subdivision 3, and the amount paid by the employer based on the employee's wages under section 268B.14, subdivision 1;

~~(10)~~ (8) the net amount of pay after all deductions are made;

~~(11)~~ (9) the date on which the pay period ends;

~~(12)~~ (10) the legal name of the employer and the operating name of the employer if different from the legal name;

~~(13)~~ (11) the physical address of the employer's main office or principal place of business, and a mailing address if different; and

~~(14)~~ (12) the telephone number of the employer.

(c) An employer must provide earnings statements to an employee in writing, rather than by electronic means, if the employer has received at least 24 hours notice from an employee that the employee would like to receive earnings statements in written form. Once an employer has received notice from an employee that the employee would like to receive

4.1 earnings statements in written form, the employer must comply with that request on an
4.2 ongoing basis.

4.3 (d) At the start of employment, an employer shall provide each employee a written notice
4.4 containing the following information:

4.5 (1) the rate or rates of pay and basis thereof, including whether the employee is paid by
4.6 the hour, shift, day, week, salary, piece, commission, or other method, and the specific
4.7 application of any additional rates;

4.8 (2) allowances, if any, claimed pursuant to permitted meals and lodging;

4.9 (3) paid vacation, sick time, or other paid time-off accruals and terms of use;

4.10 (4) the employee's employment status and whether the employee is exempt from minimum
4.11 wage, overtime, and other provisions of chapter 177, and on what basis;

4.12 (5) a list of deductions that may be made from the employee's pay;

4.13 (6) the number of days in the pay period, the regularly scheduled pay day, and the pay
4.14 day on which the employee will receive the first payment of wages earned;

4.15 (7) the legal name of the employer and the operating name of the employer if different
4.16 from the legal name;

4.17 (8) the physical address of the employer's main office or principal place of business, and
4.18 a mailing address if different; and

4.19 (9) the telephone number of the employer.

4.20 (e) The employer must keep a copy of the notice under paragraph (d) signed by each
4.21 employee acknowledging receipt of the notice. The notice must be provided to each employee
4.22 in English. The English version of the notice must include text provided by the commissioner
4.23 that informs employees that they may request, by indicating on the form, the notice be
4.24 provided in a particular language. If requested, the employer shall provide the notice in the
4.25 language requested by the employee. The commissioner shall make available to employers
4.26 the text to be included in the English version of the notice required by this section and assist
4.27 employers with translation of the notice in the languages requested by their employees.

4.28 (f) An employer must provide the employee any written changes to the information
4.29 contained in the notice under paragraph (d) prior to the date the changes take effect.

4.30 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.1 Sec. 5. Minnesota Statutes 2023 Supplement, section 181.9445, subdivision 4, is amended
5.2 to read:

5.3 Subd. 4. **Earned sick and safe time.** "Earned sick and safe time" means leave, including
5.4 paid time off and other paid leave systems, that is paid at the ~~same hourly rate as an employee~~
5.5 ~~earns from employment~~ employee's regular rate of pay that may be used for the same
5.6 purposes and under the same conditions as provided under section 181.9447, but in no case
5.7 shall this ~~hourly~~ rate be less than that provided under section 177.24 or an applicable local
5.8 minimum wage.

5.9 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.10 Sec. 6. Minnesota Statutes 2023 Supplement, section 181.9445, subdivision 5, is amended
5.11 to read:

5.12 Subd. 5. **Employee.** "Employee" means any person who is employed by an employer,
5.13 including temporary and part-time employees, who ~~performs~~ is anticipated by the employer
5.14 to perform work for at least 80 hours in a year for that employer in Minnesota. Employee
5.15 does not include:

5.16 (1) an independent contractor; or

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

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

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

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

5.21 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.22 Sec. 7. Minnesota Statutes 2023 Supplement, section 181.9446, is amended to read:

5.23 **181.9446 ACCRUAL OF EARNED SICK AND SAFE TIME.**

5.24 (a) An employee accrues a minimum of one hour of earned sick and safe time for every
5.25 30 hours worked up to a maximum of 48 hours of earned sick and safe time in a year.
5.26 Employees may not accrue more than 48 hours of earned sick and safe time in a year unless
5.27 the employer agrees to a higher amount.

5.28 (b)(1) Except as provided in clause (2), employers must permit an employee to carry
5.29 over accrued but unused sick and safe time into the following year. The total amount of

6.1 accrued but unused earned sick and safe time for an employee must not exceed 80 hours at
6.2 any time, unless an employer agrees to a higher amount.

6.3 (2) In lieu of permitting the carryover of accrued but unused sick and safe time into the
6.4 following year as provided under clause (1), an employer may provide an employee with
6.5 earned sick and safe time for the year that meets or exceeds the requirements of this section
6.6 that is available for the employee's immediate use at the beginning of the subsequent year
6.7 as follows: (i) 48 hours, if an employer pays an employee for accrued but unused sick and
6.8 safe time at the end of a year at the ~~same hourly rate as an employee earns from employment~~
6.9 employee's regular rate of pay and in no case at a rate less than that provided under section
6.10 177.24 or an applicable local minimum wage; or (ii) 80 hours, if an employer does not pay
6.11 an employee for accrued but unused sick and safe time at the end of a year ~~at the same or~~
6.12 ~~greater hourly rate as an employee earns from employment. In no case shall this hourly rate~~
6.13 ~~be less than that provided under section 177.24, or an applicable local minimum wage.~~

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

6.19 (d) Earned sick and safe time under this section begins to accrue at the commencement
6.20 of employment of the employee.

6.21 (e) Employees may use earned sick and safe time as it is accrued.

6.22 Sec. 8. Minnesota Statutes 2023 Supplement, section 181.9447, subdivision 1, is amended
6.23 to read:

6.24 Subdivision 1. **Eligible use.** An employee may use accrued earned sick and safe time
6.25 for:

6.26 (1) an employee's:

6.27 (i) mental or physical illness, injury, or other health condition;

6.28 (ii) need for medical diagnosis, care, or treatment of a mental or physical illness, injury,
6.29 or health condition; ~~or~~

6.30 (iii) need for preventive medical or health care; or

6.31 (iv) need to make arrangements for or attend funeral services or a memorial, or address
6.32 financial or legal matters that arise after the death of a family member;

7.1 (2) care of a family member:

7.2 (i) with a mental or physical illness, injury, or other health condition;

7.3 (ii) who needs medical diagnosis, care, or treatment of a mental or physical illness,
7.4 injury, or other health condition; or

7.5 (iii) who needs preventive medical or health care;

7.6 (3) absence due to domestic abuse, sexual assault, or stalking of the employee or
7.7 employee's family member, provided the absence is to:

7.8 (i) seek medical attention related to physical or psychological injury or disability caused
7.9 by domestic abuse, sexual assault, or stalking;

7.10 (ii) obtain services from a victim services organization;

7.11 (iii) obtain psychological or other counseling;

7.12 (iv) seek relocation or take steps to secure an existing home due to domestic abuse,
7.13 sexual assault, or stalking; or

7.14 (v) seek legal advice or take legal action, including preparing for or participating in any
7.15 civil or criminal legal proceeding related to or resulting from domestic abuse, sexual assault,
7.16 or stalking;

7.17 (4) closure of the employee's place of business due to weather or other public emergency
7.18 or an employee's need to care for a family member whose school or place of care has been
7.19 closed due to weather or other public emergency;

7.20 (5) the employee's inability to work or telework because the employee is: (i) prohibited
7.21 from working by the employer due to health concerns related to the potential transmission
7.22 of a communicable illness related to a public emergency; or (ii) seeking or awaiting the
7.23 results of a diagnostic test for, or a medical diagnosis of, a communicable disease related
7.24 to a public emergency and such employee has been exposed to a communicable disease or
7.25 the employee's employer has requested a test or diagnosis; and

7.26 (6) when it has been determined by the health authorities having jurisdiction or by a
7.27 health care professional that the presence of the employee or family member of the employee
7.28 in the community would jeopardize the health of others because of the exposure of the
7.29 employee or family member of the employee to a communicable disease, whether or not
7.30 the employee or family member has actually contracted the communicable disease.

7.31 For the purposes of this subdivision, a public emergency shall include a declared
7.32 emergency as defined in section 12.03 or a declared local emergency under section 12.29.

8.1 **EFFECTIVE DATE.** This section is effective the day following final enactment.

8.2 Sec. 9. Minnesota Statutes 2023 Supplement, section 181.9447, subdivision 3, is amended
8.3 to read:

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

8.7 (b) For earned sick and safe time under subdivision 1, clauses (1), (2), (5), and (6),
8.8 reasonable documentation may include a signed statement by a health care professional
8.9 indicating the need for use of earned sick and safe time. However, if the employee or
8.10 employee's family member did not receive services from a health care professional, or if
8.11 documentation cannot be obtained from a health care professional in a reasonable time or
8.12 without added expense, then reasonable documentation for the purposes of this paragraph
8.13 may include a written statement from the employee indicating that the employee is using
8.14 or used earned sick and safe time for a qualifying purpose covered by subdivision 1, clause
8.15 (1), (2), (5), or (6).

8.16 (c) For earned sick and safe time under subdivision 1, clause (3), an employer must
8.17 accept a court record or documentation signed by a volunteer or employee of a victims
8.18 services organization, an attorney, a police officer, or an antiviolence counselor as reasonable
8.19 documentation. If documentation cannot be obtained in a reasonable time or without added
8.20 expense, then reasonable documentation for the purposes of this paragraph may include a
8.21 written statement from the employee indicating that the employee is using or used earned
8.22 sick and safe time for a qualifying purpose covered under subdivision 1, clause (3).

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

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

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

8.33 **EFFECTIVE DATE.** This section is effective the day following final enactment.

9.1 Sec. 10. Minnesota Statutes 2023 Supplement, section 181.9447, subdivision 5, is amended
9.2 to read:

9.3 Subd. 5. **Increment of time used.** Earned sick and safe time may be used in the ~~smallest~~
9.4 ~~increment of time tracked by the employer's payroll system, provided such increment is not~~
9.5 ~~more than four hours~~ same increment of time for which employees are paid, provided an
9.6 employer is not required to provide leave in less than 15-minute increments nor can the
9.7 employer require use of earned sick and safe time in more than four-hour increments.

9.8 **EFFECTIVE DATE.** This section is effective the day following final enactment.

9.9 Sec. 11. Minnesota Statutes 2023 Supplement, section 181.9447, subdivision 10, is amended
9.10 to read:

9.11 Subd. 10. **Employer records and required statement to employees.** (a) Employers
9.12 shall retain accurate records documenting hours worked by employees and earned sick and
9.13 safe time taken and comply with all requirements under section 177.30.

9.14 (b) At the end of each pay period, the employer shall provide, in writing or electronically,
9.15 information stating the employee's current amount of:

9.16 (1) the total number of earned sick and safe time hours available to the employee for
9.17 use under section 181.9446; and

9.18 (2) the total number of earned sick and safe time hours used during the pay period under
9.19 section 181.9447.

9.20 Employers may choose a reasonable system for providing this information, including
9.21 but not limited to listing information on or attached to each earnings statement or an
9.22 electronic system where employees can access this information. An employer who chooses
9.23 to provide this information by electronic means must provide employee access to an
9.24 employer-owned computer during an employee's regular working hours to review and print.

9.25 ~~(b)~~ (c) An employer must allow an employee to inspect records required by this section
9.26 and relating to that employee at a reasonable time and place.

9.27 (d) The records required by this section must be kept for three years.

9.28 (e) All records required to be kept under this section must be readily available for
9.29 inspection by the commissioner upon demand. The records must be either kept at the place
9.30 where employees are working or kept in a manner that allows the employer to comply with
9.31 this paragraph within 72 hours.

10.1 Sec. 12. Minnesota Statutes 2023 Supplement, section 181.9447, subdivision 11, is amended
10.2 to read:

10.3 Subd. 11. **Confidentiality and nondisclosure.** (a) If, in conjunction with this section,
10.4 an employer possesses:

10.5 (1) health or medical information regarding an employee or an employee's family
10.6 member;

10.7 (2) information pertaining to domestic abuse, sexual assault, or stalking;

10.8 (3) information that the employee has requested or obtained leave under this section; or

10.9 (4) any written or oral statement, documentation, record, or corroborating evidence
10.10 provided by the employee or an employee's family member, the employer must treat such
10.11 information as confidential.

10.12 Information given by an employee may only be disclosed by an employer if the disclosure
10.13 is requested or consented to by the employee, when ordered by a court or administrative
10.14 agency, or when otherwise required by federal or state law.

10.15 (b) Records and documents relating to medical certifications, recertifications, or medical
10.16 histories of employees or family members of employees created for purposes of section
10.17 177.50 or sections 181.9445 to 181.9448 must be maintained as confidential medical records
10.18 separate from the usual personnel files. At the request of the employee, the employer must
10.19 destroy or return the records required by sections 181.9445 to 181.9448 that are older than
10.20 three years prior to the current calendar year, unless state or federal law, rule, or regulation
10.21 requires the employer to retain such records.

10.22 (c) Employers may not discriminate against any employee based on records created for
10.23 the purposes of section 177.50 or sections 181.9445 to 181.9448.

10.24 **EFFECTIVE DATE.** This section is effective the day following final enactment.

10.25 Sec. 13. Minnesota Statutes 2023 Supplement, section 181.9448, subdivision 1, is amended
10.26 to read:

10.27 Subdivision 1. **No effect on more generous sick and safe time policies.** (a) Nothing
10.28 in sections 181.9445 to 181.9448 shall be construed to discourage employers from adopting
10.29 or retaining earned sick and safe time policies that meet or exceed, and do not otherwise
10.30 conflict with, the minimum standards and requirements provided in sections 181.9445 to
10.31 181.9448, provided that all time provided to an employee by an employer for absences from
10.32 work due to personal illness or injury, but not including short-term or long-term disability

11.1 or other salary continuation benefits, meet or exceed the minimum standards and requirements
11.2 provided in sections 181.9445 to 181.9448.

11.3 (b) Nothing in sections 181.9445 to 181.9448 shall be construed to limit the right of
11.4 parties to a collective bargaining agreement to bargain and agree with respect to earned sick
11.5 and safe time policies or to diminish the obligation of an employer to comply with any
11.6 contract, collective bargaining agreement, or any employment benefit program or plan that
11.7 meets or exceeds, and does not otherwise conflict with, the minimum standards and
11.8 requirements provided in this section.

11.9 (c) Nothing in sections 181.9445 to 181.9448 shall be construed to preempt, limit, or
11.10 otherwise affect the applicability of any other law, regulation, requirement, policy, or
11.11 standard that provides for a greater amount, accrual, or use by employees of paid sick and
11.12 safe time or that extends other protections to employees.

11.13 (d) Nothing in sections 181.9445 to 181.9448 shall be construed or applied so as to
11.14 create any power or duty in conflict with federal law.

11.15 (e) Employers who provide earned sick and safe time to their employees under a paid
11.16 time off policy or other paid leave policy that may be used for the same purposes and under
11.17 the same conditions as earned sick and safe time, and that meets or exceeds, and does not
11.18 otherwise conflict with, the minimum standards and requirements provided in sections
11.19 181.9445 to 181.9448 are not required to provide additional earned sick and safe time.

11.20 (f) The provisions of sections 181.9445 to 181.9448 may be waived by a collective
11.21 bargaining agreement with a bona fide building and construction trades labor organization
11.22 that has established itself as the collective bargaining representative for the affected building
11.23 and construction industry employees, provided that for such waiver to be valid, it shall
11.24 explicitly reference sections 181.9445 to 181.9448 and clearly and unambiguously waive
11.25 application of those sections to such employees.

11.26 (g) An individual provider, as defined in section 256B.0711, subdivision 1, paragraph
11.27 (d), who provides services through a consumer support grant under section 256.476,
11.28 consumer-directed community supports under section 256B.4911, or community first services
11.29 and supports under section 256B.85, to a family member who is a participant, as defined
11.30 in section 256B.0711, subdivision 1, paragraph (e), may individually waive the provisions
11.31 of sections 181.9445 to 181.9448 for the remainder of the participant's service plan year,
11.32 provided that the funds are returned to the participant's budget. Once an individual provider
11.33 has waived the provisions of sections 181.9445 to 181.9448, they may not accrue earned
11.34 sick and safe time until the start of the participant's next service plan year.

12.1 ~~(g)~~ (h) Sections 181.9445 to 181.9448 do not prohibit an employer from establishing a
12.2 policy whereby employees may donate unused accrued sick and safe time to another
12.3 employee.

12.4 ~~(h)~~ (i) Sections 181.9445 to 181.9448 do not prohibit an employer from advancing sick
12.5 and safe time to an employee before accrual by the employee.

12.6 **EFFECTIVE DATE.** This section is effective the day following final enactment.

12.7 Sec. 14. Minnesota Statutes 2023 Supplement, section 181.9448, subdivision 2, is amended
12.8 to read:

12.9 Subd. 2. **Termination; separation; transfer.** Sections 181.9445 to 181.9448 do not
12.10 require financial or other reimbursement to an employee from an employer upon the
12.11 employee's termination, resignation, retirement, or other separation from employment for
12.12 accrued earned sick and safe time that has not been used. If an employee is transferred to
12.13 a separate division, entity, or location, but remains employed by the same employer, the
12.14 employee is entitled to all earned sick and safe time accrued at the prior division, entity, or
12.15 location and is entitled to use all earned sick and safe time as provided in sections 181.9445
12.16 to 181.9448. When there is a separation from employment and the employee is rehired
12.17 within 180 days of separation by the same employer, previously accrued earned sick and
12.18 safe time that had not been used or otherwise disbursed to the benefit of the employee upon
12.19 separation must be reinstated. An employee is entitled to use accrued earned sick and safe
12.20 time and accrue additional earned sick and safe time at the commencement of reemployment.

12.21 **EFFECTIVE DATE.** This section is effective the day following final enactment.