

And a (Happy?) New Year!

As we bid farewell to 2023 and welcome the New Year, Minnesota employers are in for a wave of changes. Here's a comprehensive overview of crucial details that your business should be mindful of as we step into the upcoming year:

Earned Sick and Safe Time

Have you reviewed your company's PTO/sick time policy to align with Minnesota's new Earned Sick and Safe Leave law? Here are some noteworthy aspects that may catch employers off guard:

Applicability: The law applies to employees who work at least 80 hours a year for an employer in MN, excluding independent contractors.

Usage: Employees can use ESST time as soon as it accrues – eliminating the possibility of a probationary period during which employees are restricted from taking ESST time.

Employee Notice Requirements: An employer can require notice up to seven days in advance when the need to use ESST is foreseeable. If it is not foreseeable, you may require notice as soon as practicable. All notice requirements must be communicated in writing to employees.

Documentation: Employers can request documentation after an employee misses three consecutive scheduled workdays. However, this documentation can be as simple as a written statement from the employee confirming ESST use for a qualifying purpose without requiring specific details.

Coverage: Employers are not allowed to require an employee to find a replacement working as a condition of using ESST.

Employer Notice Requirements: Employers must include the DOLI notice on January 1, 2024, or at the start of employment, and include the notice in an employee handbook to the extent one exists.

Local Ordinances: Employers in Bloomington, Duluth, Minneapolis, and St. Paul must also adhere to the local ESST ordinances in these cities.

Legal Recourse: Employees have the option to pursue a civil lawsuit to address violations of ESST regulations.

Resources: The MN Department of Labor and Industry has an ever-expanding FAQ section, a recorded webinar presentation, sample notices, and workplace posters in many languages available here: <https://www.dli.mn.gov/sick-leave>

Inquiries into Pay History

Starting January 1, employers in Minnesota may not inquire into, consider, or require disclosure of the pay history of an applicant for employment for the purposes of determining wages, benefits, salary, or other compensation. Nothing stops an applicant from disclosing (without prompting) their pay history, at which point the employer may only consider that voluntarily disclosed salary history to support a wage or salary higher than what was initially offered.

Veterans Benefits and Services

Starting January 1, employers with more than 50 full-time employees must post a notice (available on the MN DOLI website).



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And in case you missed it...

Expanded accommodations for pregnant and lactating employees

Effective July 1, 2023, the law removes limitations on expressing milk to the first 12 months following childbirth.

Employers can no longer deny break times, even if the break would unduly disrupt the operations of the employer. Breaks may run concurrently with break times already provided, but they are not required to.

Employers must provide a clean, private, and secure location for employees to express milk.

Pregnancy accommodations have expanded to include (but are not limited to) temporary leave of absence, a modification to work schedule or job assignment, and more frequent or longer breaks. This law now applies to employers with one or more employees.

Employers must provide notice of these rights upon hiring, an inquiry into or request for parental leave, and include the notice in an employee handbook to the extent one exists.

Crown Act

Effective January 31, 2023, the act explicitly protects employees from adverse employment actions, such as discipline, failure to promote, termination, or harassment, based on an employee's hair texture or style associated with the person's race.

Legalization of Recreational Marijuana

Effective August 1, 2023, significant changes were enacted to Minnesota's Drug and Alcohol Testing in the Workplace Act (DATWA) and the availability of adverse employment actions based on off-duty cannabis use.

Employer-Sponsored Meeting and Communications

Effective August 1, 2023, employers may not take any adverse employment action against an employee who declines to attend an employer-sponsored meeting or declines to receive or listen to employer communications if those communications are intended to communicate the employer's opinion about a religious or political issue.

Looking ahead....

Paid Family Medical Leave Act (PFML)

Statewide paid family and medical leave begins January 1, 2026. Beginning in 2024, most Minnesota employers will be required to submit a wage detail report detailing the quarterly wages received and hours worked for each employee.

Cozen O'Connor is happy to assist employers with navigating the nuances of these new laws to ensure compliance.