

# Preparing for Duluth, Minnesota's Sick and Safe Time Ordinance Taking Effect January 1, 2020

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## Meet the Authors



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## Related Services

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The City of Duluth, Minnesota's [Sick and Safe Time Ordinance](#) takes effect on January 1, 2020. Duluth is the third Minnesota city (joining [Minneapolis](#) and [St. Paul](#)) to impose sick and safe time leave requirements on employers.

Duluth's Ordinance differs from both Minneapolis and St. Paul's ordinances, complicating the web of local laws employers must track and follow and setting a potential trap for employers.

The City of Duluth's Ordinance applies to employers with at least five employees, regardless of whether those employees work in Duluth. Employees of covered employers are entitled to sick and safe time if they spend more than 50 percent of their working time in the City of Duluth's geographical limits.

Employees are entitled to one hour of sick and safe time for every 50 hours worked. Employers must allow employees to accrue up to 64 hours per year and employees can carry over up to 40 hours of earned but unused time into the following year. On the other hand, employers may use a "frontloading" method of accrual, where an employee receives at least 40 hours of sick and safe time at the beginning of each year. Employers who frontload time are not required to allow the hours to carry over to the next year.

Like Minneapolis and St. Paul, employees in Duluth may use "sick time" if they are absent from work as a result of their own mental or physical illness, injury, or health condition, or to provide care to a family member with a mental or physical illness, injury, or health condition. "Safe time" may be used for an absence due to domestic assault, sexual assault, or stalking of the employee or the employee's family member.

Some of the differences between these three local ordinances are highlighted below:

#### Who is an "Employer" Governed by the Ordinance?

*Duluth:* At least five employees

*St. Paul:* Maintains a permanent, physical location in St. Paul

*Minneapolis:* All employers

#### Who is an "Employee" Entitled to Leave?

*Duluth:* Spends more than 50 percent of his or her working time in Duluth, or is based in Duluth and does not spend more than 50 percent of working time in another place

*St. Paul:* Works at least 80 hours a year in St. Paul

*Minneapolis:* Works at least 80 hours a year in Minneapolis

## **Covered Employees are Entitled to One Hour of Leave for Every...**

*Duluth:* 50 hours worked

*St. Paul:* 30 hours worked

*Minneapolis:* 30 hours worked in the City of Minneapolis

Minneapolis has issued revised rules implementing its Sick and Safe Time. Importantly, the new rules state that covered employees are *retroactively entitled* to accrued sick and safe time based on hours worked in the City of Minneapolis dating back to July 1, 2017. Therefore, any employee who worked at least 80 hours per year in Minneapolis during that period — regardless of his or her employer’s location — accrued, and was entitled to use, sick and safe time. Compounding this abrupt recordkeeping burden, the Minneapolis Department of Civil Rights has announced it will begin enforcing the ordinance against non-resident employers on July 3, 2019. Employers, therefore, should determine: (1) if any employees were covered by the ordinance dating back to July 1, 2017; (2) the amount of sick and safe time earned by any covered employees; and (3) how much sick and safe time each covered employee used and carried over. Alternatively, employers may frontload sick and safe time (48 hours for the first year, 80 hours for each subsequent year) to avoid historical calculations.

### **Minimum Annual Cap/Carryover**

*Duluth:* 64 hours/40 hours

*St. Paul:* 80 hours/80 hours

*Minneapolis:* 80 hours/48 hours

### **Frontloading Alternative**

*Duluth:* 40 hours a year

*St. Paul:* 48 hours (year one), then 80 hours a year

*Minneapolis:* 48 hours (year one), then 80 hours a year

### **Notice Requirement**

*Duluth:* Must provide notice regarding entitlement, amount, terms, prohibiting retaliation, and right to file a complaint

*St. Paul:* May use city-provided poster or create one that contains required provisions

*Minneapolis:* Must display poster provided by the Minneapolis Department of Civil Rights in Minneapolis facilities

For more information on or help complying with any of these ordinances, contact a Jackson Lewis attorney.

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