



For your information

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## Seattle's New Paid Leave Law Takes Effect

Effective September 1, 2012, Seattle's Paid Sick Time and Paid Safe Time Ordinance requires most private sector employers to provide a minimum amount of paid leave to employees who perform work in Seattle. The new law generally applies to employers that have more than four employees (regardless of where they are located), with at least one employee who works a minimum number of hours in the city. Generally, covered employers will need to have a paid sick/safe leave policy for eligible employees that satisfies certain minimum requirements.

### Background

In September 2011, Seattle Mayor Michael McGinn signed into law [Ordinance 123698](#) (ordinance) requiring most private sector employers with employees who work in the City of Seattle to provide a minimum amount of paid sick time and paid safe time to eligible employees. On September 1, 2012, the ordinance went into effect as [Chapter 14.16](#) of the Seattle Municipal Code. Seattle's Office of Civil Rights (SOCR), which is charged with enforcement, recently issued [guidance](#) for employers on administering paid time off under the new law.

Seattle joins Washington, DC in requiring employers to provide paid leave for employee absences occasioned by illness, as well as by stalking or domestic violence (often referred to as safe time). San Francisco and Philadelphia are the nation's only other major municipalities with paid sick leave laws currently in effect. (See our August 3, 2012 [For Your Information](#).) Only Connecticut has enacted a statewide paid sick leave law. (See our June 29, 2011 [For Your Information](#).) However, during the past two years, paid sick leave legislation has been introduced in more than a dozen states (including California, Illinois, and New York), and efforts are continuing in other states and cities to advance various paid sick leave proposals. Some of these bills also would allow paid safe time.

### The New Mandate

Private sector employers that employ more than four full-time equivalents (FTEs) and have at least one employee who performs work in the City of Seattle must provide eligible employees with a minimum amount of paid sick/safe leave. With the exception of the City of Seattle, public sector employers are exempt from coverage.

## Who Is Covered

A covered employer's full-time, part-time, casual, and temporary employees are eligible for paid sick/safe leave, provided they work more than 240 hours in Seattle in a calendar year. The ordinance applies to employees who work at fixed locations, telecommute, or only work on occasion in Seattle, regardless of where their employer is located. Once an employee meets the 240-hour threshold, he or she remains covered by the ordinance for both the current and the following calendar year.

## Accrual, Use, and Carryover of Sick/Safe Leave

An employer's size dictates the benefit accrual rates, maximum hours of paid leave, and carryover that apply to its employees. The ordinance assigns employers to one of three tiers on the basis of the average number of FTEs paid for per calendar week. Compensated hours of all employees (full-time, part-time, temporary, or provided through a temporary services or staffing agency), regardless of location, are counted to determine the number of FTEs.

The following chart summarizes the accrual rates as well as usage and carryover caps by employer tier.

Annual Accrual, Usage and Carryover Schedule				
Tier	Number of FTEs*	Accrual Rate**	Annual Usage Cap	Annual Carryover Cap
Tier 1	More than 4 but fewer than 50	1 hour per 40 hours worked	40 hours	40 hours
Tier 2	50 to fewer than 250	1 hour per 40 hours worked	56 hours	56 hours
Tier 3	250 or more	1 hour per 30 hours worked	72 hours 108 hours for combined or universal paid time off (PTO) programs	72 hours 108 hours for combined or universal PTO programs

\* Includes employees working in and outside Seattle.

\*\* Paid leave accrues only for hours worked in Seattle. Leave for exempt employees generally accrues on the basis of a 40-hour workweek, and for non-exempt employees on the basis of actual hours worked (including overtime).

Generally, employees may use their accrued leave in hourly increments for their own or a family member's mental or physical illness, injury, or health condition; medical diagnosis, care, or treatment; or preventive medical care. Employees may use accrued safe leave for reasons relating either to the closure of their place of business or child's school or day care because of specified public health emergencies or to domestic violence, sexual assault, or stalking.

Employers can require employees to comply with “reasonable normal notification policies or call-in procedures for absences and/or requesting leave,” as long as the notice and procedural requirements do not interfere with the purposes of the leave. However, employers generally may not require employees to provide a doctor’s note or other verification for absences of three or fewer consecutive days unless there is a “clear instance or pattern of abuse.”

## INSIGHT

Many companies give employees a certain amount of PTO that pools sick time and vacation together. SOCR rules confirm that employers that already provide sufficient PTO to meet the ordinance’s minimum requirements do not have to provide additional PTO.

### *Notice and Recordkeeping Requirements*

In addition to providing a physical or electronic notice of employee rights under the ordinance, employers must notify employees in writing of their available, accrued sick/safe leave each time wages are paid. Notice may be provided electronically. Employers must retain for a two-year period records of hours worked, accrued paid sick/safe time, and used paid sick/safe time.

### *Waiver*

The new paid leave provisions may be waived in a *bona fide* collective bargaining agreement.

### *Enforcement*

Employers that fail to comply with the ordinance face administrative action or private lawsuits. Available remedies include reinstatement, up to two years’ back pay, the value of lost benefits, attorney’s fees, and up to \$10,000 in damages for emotional distress.

### *Conclusion*

Although many businesses that have employees in Seattle already offer some form of PTO, their personnel policies and benefit programs may apply eligibility criteria, accrual rates, or use restrictions that do not comply with the ordinance. Thus, employers must carefully determine whether they are covered by the ordinance and, if they are, whether they need to implement a new paid sick/safe leave policy or make changes to existing programs to ensure compliance with Seattle’s new mandate.