Seattle Paid Sick and Safe Time Ordinance

Overview

- Begins on September 1, 2012.
- Provides paid sick and safe time (PSST) for employees working within Seattle City limits.
- Sets minimum requirements for accrual, use, and carryover of PSST.
- Requires employer notification and tracking of PSST.
- Offers basic job protections for employees who use PSST.
- New law is enforced by Seattle Office for Civil Rights.

What is PSST?

**SICK TIME** can be used for:
- Personal illness or preventative care.
- Care for a family member’s illness or preventative care (child, grandparent, parent, parent-in-law, spouse and registered domestic partner).

**SAFE TIME** can be used for:
- Survivors of domestic violence, sexual assault or stalking.
- Closure of workplace or child’s school or place of care by public official to limit exposure to infectious agent, biological toxin or hazardous material.

Who is covered?

- Employees who perform work in Seattle:
  - Full-time, part-time, temporary, and occasional-basis employees.
  - Employees who telecommute in Seattle.
  - Employees who stop in Seattle as a purpose of their work.

- Excludes:
  - Federal, state, or county government employers
  - Employees who work or telecommute outside of Seattle.
  - Employees who travel through Seattle.
  - Students enrolled in a work study program.
  - Two year exemption for new small and medium-sized employers (Tier 1 and Tier 2)

<table>
<thead>
<tr>
<th>General Information</th>
<th>Small (Tier 1) Employer</th>
<th>Medium (Tier 2) Employer</th>
<th>Large (Tier 3) Employer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full Time Equivalents (FTEs)</td>
<td>More than 4-49 employees</td>
<td>More than 49 to 249 employees</td>
<td>250 or more employees</td>
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<tr>
<td>Accrual of paid sick/safe time</td>
<td>1 hour / 40 hours worked</td>
<td>1 hour / 40 hours worked</td>
<td>1 hour / 30 hours worked</td>
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<tr>
<td>Use of paid sick/safe time</td>
<td>40 hours / calendar year</td>
<td>56 hours / calendar year</td>
<td>72 hours / calendar year</td>
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<tr>
<td>Carryover of unused paid sick/safe time</td>
<td>40 hours / calendar year</td>
<td>56 hours / calendar year</td>
<td>72 hours / calendar year</td>
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Other facts:

- **Accrual begins** on September 1, 2012 or when the employee is hired after this date.
- **Accrual based on hours worked in Seattle** including overtime for non-exempt employees.
- **Accrual for occasional employees begins** after they have worked 240 hours in a calendar year. Accrual begins on the 241st hour; employees are covered for current and following calendar year.
- **Use begins** after 180th calendar day from the beginning of employment.
- **Hour-long increments**: PSST can be used in hour-long increments.
- **Carry-over**: Employees permitted to carry over unused hours to the next calendar year.
- **Frontloading permitted** for accrual, use and carry over.
- **Combined or universal leave** (aka Personal Time Off / PTO) policies are permitted, provided they comply with the PSST Ordinance.
- **Cash out option**: If employer allows, employees have the voluntary option to cash out unused PSST.
- **Rate of pay**: Same hourly wage that employee would have earned during time PSST was taken.
- **Excludes lost tips and commissions** that employee might have received when PSST was taken.
- **No waivers**: Employees cannot waive their right to PSST (except collective bargaining agreements).
- **Separation from employment**: PSST reinstated if an employee is rehired within 7 months by the same employer.
- **Other laws**: Ordinance does not preempt or limit application of federal, state or other local laws.
- **Other laws**: PSST can be coordinated with other leave laws such as FMLA, Domestic Violence Leave, Workers Compensation etc.

**How does an employee request use of PSST?**

- **Foreseeable leave**: A written request at least 10 days in advance of leave (unless employer’s policy requires less notice.)
- **Unforeseeable leave**: Give notice “as soon as practicable” (in compliance with the employer’s policy for unforeseeable leave).
- **Paid safe time**: end of first day of for domestic violence, sexual assault or stalking.
- **Employer policies**: Employer can require employees to follow their rules about giving notice.

**Employee documentation for use of PSST:**

- 1-3 consecutive days: Employee **not** required to provide documentation.
- More than 3 consecutive days: Employer may require documentation (e.g. statement from healthcare professional that sick time was necessary).
- **Clear instance or pattern of abuse**: Employer may ask for documentation for absences that are shorter than 3 days.
- **Privacy**: Employer cannot require statement regarding the nature of the illness or other private medical information (but FMLA and ADA may apply and permit such inquiries).
- **Payment for documentation**:
  - **If employer does not offer health insurance**: Employer and employee each pay 50% of the cost to obtain documentation (services by health care professionals and facilities, prescribed testing and transportation service providers).
  - **If employee declined health insurance**: Employee is not entitled to reimbursement.
- **Paid SAFE time for domestic violence, sexual assault or stalking**:
  - Police report.
• Court order.
• Documentation that the employee or employee’s family member is experiencing domestic violence, sexual assault, or stalking.
• Employee’s written statement is acceptable documentation by itself.
• Confidential – no explanation required of the nature of the situation or reason for taking leave.

**PSST and employer attendance policies:**

- **Absence control policies:** PSST cannot be counted as an absence that may result in discipline.
- **Clear instance or pattern of abuse:** Employer can take reasonable action (e.g. discipline) for:
  - Repeated absences.
  - Absences that precede or follow regular days off, or some other pattern without valid reason.
  - Obtaining or using paid sick time improperly.

**PSST notice and record-keeping requirements:**

- **Notice:** employers are required to provide notice to all employees who work in Seattle, regardless of employer tier size or location. Notice must be:
  - Conspicuous and accessible.
  - Physical and/or electronic.
- **Notification:** Employers must provide notification of available PSST each time wages are paid:
  - By paystub and/or online.
- **Record keeping:** Employers must retain PSST records for two years that indicate:
  - Employee hours worked in Seattle.
  - Accrued PSST by employee.
  - Use of PSST by employee.

**Retaliation protection**

- **Retaliation is illegal.** Employers are prohibited from disciplining or discriminating against employees who have exercised their rights under the Ordinance.
- **Employee and third-party complaints are permitted.**
- **Broad protection against retaliation:** Anti-retaliation provision applies to ALL employers with one or more employees.

**Collective Bargaining Agreements (CBA):**

- **Waiver of rights is permitted:**
  - In CBA or MOA (Memorandum of Agreement).
  - Must be in clear and unambiguous language.
  - Must include a specific reference to the Ordinance.

**City of Seattle employees:**

- **PSST Ordinance applies to City of Seattle employees:**
  - Most City employees already receive PSST benefit.
  - City policies regarding temporary employees have been changed to comply with the Ordinance.