



SEATTLE

MINIMUM WAGE, WAGE THEFT & PAID SICK AND SAFE TIME

Comparison with WA State Initiative 1433

- Seattle = **SMC 14.19 (MW)** and **SMC 14.16 (PSST)**
- Statewide = **Initiative 1433**
- Beginning with “other provisions” on p. 1, see *italicized text* for differences between the laws

MINIMUM WAGE			
Rate of Pay	Seattle		Statewide
	Large Employer 501+ employees	Small Employer 500 or fewer employees	All employers
2017	\$15.00 \$13.50 with medical benefits	\$13.00 \$11.00 with tips and/or medical benefits	\$11.00
2018	<i>\$15.00 as adjusted for inflation based on Regional CPI-W increase</i> \$15.00 with medical benefits	\$14.00 \$11.50 with tips and/or medical benefits	\$11.50
2019	<i>Regional CPI-W increase</i>	\$15.00 \$12.00 with tips and/or medical benefits	\$12.00
2020	<i>Regional CPI-W increase</i>	<i>\$15 as adjusted for inflation based on regional CPI-W increase</i> \$13.50 with tips and/or medical benefits	\$13.50
2021	<i>Regional CPI-W increase</i>	<i>Regional CPI-W increase</i> \$15.00 with tips and/or medical benefits	<i>CPI-W increase*</i> *L&I calculates the increase in the minimum wage using the national CPI-W.
Other Provisions	Seattle		Statewide
Administrative Rules	<i>SHRR Chapter 90</i>		<i>WAC 296-128</i>
Tips	<i>Small employers may count tips toward Seattle minimum compensation through 2024. See above chart for specific tip amounts that small employers can count toward Seattle minimum compensation.</i>		<i>Tips may not count toward [state] hourly minimum wage.</i>

Service charges	<p>Current administrative rule = <i>Service charges, paid or payable to the employee, may be considered commissions for purposes of this ordinance if they meet the definition of commission in SMC 14.19.010.</i></p> <p>Q&A = <i>For the purposes of this ordinance, service charges are considered earnings only above the state minimum wage.</i></p> <p>Proposed administrative rule = <i>Service charges paid to an employee may count toward Seattle minimum wage and minimum compensation for the employee’s earnings above the state minimum wage, as set forth in RCW 49.46.020.</i></p>	<p><i>Tips and service charges paid to an employee are in addition to, and may not count towards, the employee’s [state] hourly minimum wage.</i></p>
Workplace poster	<p><i>Employers must display poster created by OLS with notice of employee rights in Seattle in a conspicuous and accessible location at the workplace.</i></p> <p><i>Employers must display the poster in English and in the primary language(s) of the employee(s).</i></p>	<p><i>Employers must display a poster created by L&I with notice of employee rights in Washington (i.e. “Your Rights as a Worker in Washington State”) in a readily accessible location and within plain view in each work site where an employee or employees are employed.</i></p>

WAGE THEFT PROTECTIONS

	Seattle	Statewide
Notice of employment information	Yes	No
Compensation due	<p>Salaries, wages, tips, overtime, commissions, piece rate, bonuses, rest breaks, promised or legislatively-required paid leave, and reimbursement for employer expenses.</p> <p><i>Difference: Service charges are not specifically listed as a form of compensation due to employee.</i></p>	<p>Wages (includes minimum wage, overtime, contractually agreed-to wages, wages owed by statute, wages owed by ordinance, salaries, commissions, piece rates, flat rates, non-discretionary bonuses, final paychecks, and unlawful deductions), tips and <i>service charges</i> (except those that are itemized as not being payable to the employee or employees servicing customer).</p>
Itemized paycheck	Yes	Yes

ENFORCEMENT		
	Seattle	Statewide
Government Agency	Seattle Office of Labor Standards	Washington State Department of Labor & Industries
Statute of Limitations	Three years.	Three years.
Remedies in administrative investigation	<p><i>Up to 3x wages due plus interest* & up to \$5,000 for retaliation plus wages due and equitable relief (e.g. reinstatement, front pay).</i></p> <p><i>*Interest shall accrue from the date the unpaid wages were first due at 12 percent per annum, or the maximum rate permitted under RCW 19.52.020.</i></p> <p><i>Civil penalties.</i></p>	<p><i>Wages due.</i></p> <p><i>*Interest is calculated from the first date wages were owed to the employee at one percent per month.</i></p> <p><i>Civil penalties only for willful non-compliance.</i></p>
Private right of action	Yes	Yes
<ul style="list-style-type: none"> Ability to file lawsuit 		
Remedies in private right of action	<p><i>Up to 3x wages due plus interest* & up to \$5,000 for retaliation plus wages due and equitable relief (e.g. reinstatement, front pay). Attorney fees and costs,</i></p> <p><i>*Interest shall accrue from the date the unpaid wages were first due at 12 percent per annum, or the maximum rate permitted under RCW 19.52.020.</i></p>	<p><i>2x wages due for willful noncompliance. Attorney fees unless the amount of recovery is less than or equal to the amount admitted by the employer to be owing for said wages or salary.</i></p>

PAID SICK LEAVE		
	Seattle	Statewide
Effective Date	<i>September 1, 2011</i>	<i>January 1, 2018</i>
Administrative Rules	<i>SHRR Chapter 70</i>	<i>"The state department of labor and industries must adopt and implement rules to carry out and enforce this act, including but not limited to procedures for notification to employees and reporting regarding sick leave, and protecting employees from retaliation for the lawful use of sick leave and exercising other rights under this chapter. The department's rules for enforcement of rights under this act shall be at least equal to enforcement of the minimum wage."</i>

Workplace poster	<p><i>Employers must display poster created by OLS with notice of employee rights in Seattle in a conspicuous and accessible location at the workplace.</i></p> <p><i>Employers must display the poster in English and in the primary language(s) of the employee(s).</i></p>	<i>Subject to rulemaking.</i>
Written PSST policy	<i>Employers must provide employees with written PSST policy and procedure.</i>	<i>Subject to rulemaking.</i>
Reasons for use	<p>Sick = Care for self or family member due to mental or physical illness, injury, or health condition; medical diagnosis care, or treatment; or an employee's need for preventive medical care.</p> <p>Safe = Care for self or family member due to domestic violence, sexual assault, or stalking covered by RCW 49.76.030.</p> <p>Closure of employee's workplace or employee's child's place of care/school due to order of public official <i>to limit exposure to an infectious agent, biological toxin or hazardous material.</i></p>	<p>Sick = Care for self or family member due to mental or physical illness, injury, or health condition; medical diagnosis, care, or treatment; or an employee's need for preventive medical care.</p> <p>Sick = Care for personal or family member due to domestic violence, sexual assault, or stalking covered by RCW 49.76.</p> <p>Closure of employee's workplace or employee's child's place of care/school due to order of a public official for <i>any health-related reason.</i></p>
Family Member Definition	<p>Sick = Child, parent, parent-in-law, spouse, registered domestic partner, grandparent.</p> <p><i>Does not include sibling or grandchild.</i></p> <p>Safe = Family or household members as defined in RCW 49.76.020, spouses, domestic partners, former spouses, former domestic partners, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons 16 years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons 16 years of age or older with whom a person 16 years of age or older has or has had a dating relationship, and persons who have a biological or legal</p>	<p>Sick = Child, parent, spouse, registered domestic partner, grandparent, grandchild, sibling.</p> <p><i>Includes sibling and grandchild.</i></p> <p>Sick = Employee is authorized to use paid sick leave for absences that qualify for leave under RCW 49.76.</p>

	parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.	
Employer	<i>More than four FTEs</i> Tier 1 = more than 4 and fewer than 50 FTEs Tier 2 = 50 and fewer than 250 FTEs Tier 3 = 250+ FTEs	<i>Every employer.</i>
Employer exemptions • Gov't entities	<i>Federal and state government entity; any county or local government entity other than the City of Seattle.</i>	<i>No statement re: coverage of other government entities.</i>
• New Employers	<i>For new Tier 1 and 2 employers, exemption from ordinance requirements for two years following date of hire of first employee.</i>	<i>No statement re: new employers.</i>
Employee	Hourly and overtime-exempt employees	<i>Employee as defined in RCW 49.46.010.3</i>
Employment in Seattle • Location of work	Employee is covered by PSST if the employee performs work <i>within the geographic boundaries of the City.</i>	<i>"Declaration of necessity and police power" establishes the right to paid sick leave to protect public health and allow workers to care for the health of themselves and their families for employment within the state of Washington. <u>RCW 49.46.005.</u></i>
• Typically based outside the jurisdiction and works on an Occasional basis	Employee who is typically based outside of the City and performs work in the City on an occasional basis is covered by PSST <i>only if the employee performs more than 240 hours of work in the City within a benefit year.</i>	<i>No statement re: employees who are typically based outside of the state and/or who work in the state on an occasional basis.</i>
Employee exemption Work study	<i>"Employee" does not include an individual performing services under a work study agreement.</i>	<i>No statement re: work study.</i>
Accrual rate	<i>Tier 1 & 2 = 1 hour per 40 hours worked. Tier 3 = 1 hour per 30 hours worked.</i>	<i>1 hour per 40 hours worked.</i>
Accrual	No stated limit.	No stated limit.
Frontloading	Yes, permitted by rule.	Yes, permitted by law.
Carry over	<i>Tier 1 = 40 hours. Tier 2 = 56 hours. Tier 3 = 72 hours or 108 hours for PTO.</i>	<i>40 hours.</i>

	Unused paid sick time and paid safe time shall be carried over to the following <i>benefit year</i> .	Unused paid sick leave carries over to the <i>following year</i> .
Year	"Benefit year" means any fixed, consecutive 12-month period of time that is normally used by an employer for calculating wages and benefits, including: January 1 through December 31; a tax year, fiscal year, or contract year; or the year running from an employee's one-year anniversary date of employment.	Year
Use		
	Seattle	Statewide
Use	Tier 1 = 40 hours. Tier 2 = 56 hours. Tier 3 = 72 hours or 108 hours for PTO.	No stated limit.
Increment of use	Hourly employees = Smaller of hourly increments or, if feasible by the employer's payroll system, increments that round to the nearest quarter of an hour. Exempt employees = For overtime exempt employees, an employer may make deductions of paid sick time and paid safe time in accordance with state and federal laws (i.e. in accordance with a bona fide plan).	No statement re: increments of use.
Notification of available paid leave	Each time wages are paid, employer must provide written update of available amount of PSST. Notification may be provided in physical or electronic format.	Employer is responsible for providing <i>regular notification</i> to employees about the amount of paid sick leave available to the employee.
Eligibility for use	180 calendar days after employment begins.	90 calendar days after employment begins.
Notice of absence	Employer may require compliance with <i>usual and customary notice and procedural requirements</i> for absences if the requirements do not interfere with use of leave. <ul style="list-style-type: none"> • Foreseeable = Written request 10 days or as early as possible. Employee shall make a reasonable effort to schedule the use of sick or safe time in a manner that does not unduly disrupt the operations of the employer. • Unforeseeable = As soon as practicable and employee must 	Employer may require <i>reasonable notice</i> of absence so long as the notice does not interfere with use of leave.

	comply with reasonable, normal, notification policies & call-in procedures.	
Replacement employee	*No statement in ordinance or rules. OLS interprets the ordinance's prohibition against retaliation to prohibit employer from requiring employee to search or find a replacement employee.	Employer may not require, as a condition of an employee taking paid sick leave, that the employee search for or find a replacement worker to cover the hours during which the employee is on paid sick leave.
Documentation of absence	<p>For absences of <i>more than three consecutive days</i>,</p> <p>Sick = Employer may require <i>reasonable documentation</i>, including documentation signed by a health care provider indicating that sick time is necessary. Employer may not require explanation of the illness.</p> <p>For employee not offered health insurance by the employer, the employee and employer shall each pay for half the cost of obtaining the documentation.</p> <p>Safe for domestic violence, sexual assault and stalking = Employer may require documentation set forth under RCW 49.76.040(4), including employee's written statement.</p> <p>Safe for closure of workplace/childcare/school = notice of closure.</p>	<p>For absences <i>exceeding three days</i>,</p> <p>Sick = Employer may require <i>verification</i> that an employee's use of paid sick leave is for an authorized purpose.</p> <p>Verification must be provided to the employer within a reasonable time period during or after the leave.</p> <p>Requirements for verification may not result in an unreasonable burden or expense on the employee and may not exceed privacy or verification requirements otherwise established by law.</p>
Shift-swaps	Permitted, but employer cannot require.	<i>No statement re: shift swaps.</i>
Shift-swaps in eating or drinking establishments	Permitted, but employer can deduct employee's PSST for substitute shift.	<i>No statement re: shift swaps in eating or drinking establishments.</i>
Rate of Pay	<p>Employee shall be compensated at the <i>same hourly rate and with the same benefits, including health care benefits</i>, as the employee would have earned during the time the paid leave is taken.</p> <p>No compensation for lost tips or commissions.</p> <p>No compensation for hours that an employee was not scheduled to have worked.</p>	<p>Paid sick leave shall be provided at the greater of the newly increased minimum wage or the <i>employee's regular and normal wage</i>.</p> <p>For each hour of paid sick leave used, an employee shall be paid the greater of the minimum hourly wage rate established by state law or the employee's <i>normal hourly compensation</i>.</p>

		<i>No statement re: compensation for lost tips or commission.</i>
Cash-out	Not required.	Not required.
Breaks in service	Reinstate balances for breaks in service of <i>7 months for same employer.</i>	Reinstate balances for breaks in service of <i>12 months</i> for same employer, whether rehired at the same or a different business location of the employer.
Retaliation	Retaliation is prohibited for employee's <i>good faith assertion of rights</i> under the ordinance.	Retaliation is prohibited for employee's <i>exercise of any rights</i> under RCW 49.46.
Absence control policies	<p>OLS interprets the ordinance's prohibition against retaliation to prohibit application of absence control policies for use of covered PSST as prohibited retaliation.</p> <p>Employers also must adjust increments of use of PSST to avoid application of absence control policies.</p> <p>"When using quarter-hour increments, employers shall use an employee's available paid sick and paid safe time to round up or down to the nearest quarter hour if necessary to prevent an employer's absence control policy from counting paid sick or paid safe time covered under this Chapter 14.16 as an absence that may lead to or result in any adverse action taken against the employee." SMC 14.16.030.C.</p>	<p>Prohibited.</p> <p>"Employer may not adopt or enforce any policy that counts the use of paid sick leave time as an absence that may lead to or result in discipline against the employee."</p>
Waiver	<i>Waiver available only for employees covered by a bona fide collective bargaining agreement, so long as PSST requirements are waived in the CBA in clear and unambiguous terms.</i>	<p>"Any agreement between such employee and the employer allowing the employee to receive less than what is due under this chapter shall be no defense to such action." RCW 49.46.090(1).</p> <p>"Action" is paying the employee less than the amounts to which the employee is entitled to by RCW 49.46.</p>
ENFORCEMENT		
	Seattle	Statewide
Government Agency	Seattle Office of Labor Standards	Washington State Labor & Industries
Statute of Limitations	<i>Three years.</i>	<i>Subject to rulemaking.</i>