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CITY OF SEATTLE  
OFFICE OF LABOR STANDARDS

# SEATTLE LABOR STANDARDS



# Business Support

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# OFFICE OF LABOR STANDARDS

## ❖ 11 Core Staff

- Dylan Orr, Director
- Senior Policy Analyst
- Enforcement Supervisor
- 5 Investigators
- Community Liaison
- Business Liaison
- Paralegal



## ❖ 5 Shared Staff

## ❖ Division of Office for Civil Rights

# SEATTLE LABOR STANDARDS

What is the rate of pay?

**MINIMUM WAGE**

Is there payment for all hours worked?

**WAGE THEFT**

Is there accrual or payment of PSST?

**PAID SICK AND SAFE TIME**

Was there denial of a job or pay due to conviction or arrest records?

**FAIR CHANCE EMPLOYMENT**

# ORDINANCE UPDATES

**In December, 2015, the City of Seattle extensively revised Seattle's labor standards ordinances. These revisions went into effect on**

**January 16, 2016.**

# **NEW** WORKPLACE POSTER

- ❖ **All Labor Standards: MWO, WT, PSST, FCE**
- ❖ **No retaliation**
- ❖ **Right to file complaint with OLS**

***Employers must display the poster in English and in the primary language(s) of the employee(s) at the particular workplace.***

**WHAT IS THE RATE OF  
PAY?**

**MINIMUM WAGE**



**April 1, 2015**

**\$11.00 per hour**



# January 1, 2016

## LARGE EMPLOYER

**\$13.00 per hour**

*—or—*

**\$12.50 per hour**

if employer payment toward employee's medical benefits

# LARGE EMPLOYERS (501+ EMPLOYEES)

<b>Year</b>	<b>Minimum Wage</b>	<b>Minimum Wage plus payment towards medical benefits</b>
<b>2015</b>	<b>\$11.00</b>	<b>\$11.00</b>
<b>2016</b>	<b>\$13.00</b>	<b>\$12.50</b>
<b>2017</b>	<b>15.00</b>	<b>\$13.50</b>
<b>2018</b>	<b>TBD</b>	<b>\$15.00</b>

# January 1, 2016

## SMALL EMPLOYER

**\$12.00 per hour**

*—or—*

**\$10.50 per hour**

plus \$1.50 tips and/or  
employer payment toward employee's medical benefits

# SMALL EMPLOYERS (500 OR FEWER EMPLOYEES)

Year	Minimum Compensation	Minimum Wage plus tips and/or payments toward medical benefits
2015	\$11.00	\$10.00
2016	\$12.00	\$10.50
2017	\$13.00	\$11.00
2018	\$14.00	\$11.50
2019	\$15.00	\$12.00
2020	TBD	\$13.50
2021	TBD	\$15.00

**IS THERE PAYMENT FOR ALL HOURS  
WORKED?**

**WAGE THEFT**



# WAGE THEFT ORDINANCE - BASICS

1. **Compensation** due to employees on regular pay day
2. **“Notice of employment information”** to
  - **New employees**
  - **Change of employment**
  - **Effective April 1<sup>st</sup>, 2016, all existing employees**
3. **Itemized paycheck information** every pay day

# PAY COMPENSATION

1. **Minimum Wage & promised wage**
  2. **Tips**
  3. **Overtime**
  4. **Hours Off the Clock**
  5. **Meals & Breaks**
  7. **Paid Sick and Safe Time**
  8. **Agreements re: Vacation**
  9. **Last Paycheck**
  10. **Bonuses**
  11. **Employer Reimbursements**
  12. **Some Uniforms & Equipment**
- \*Employee vs. independent contractor**

# NOTICE OF EMPLOYMENT INFORMATION

- 1. Employer name**
- 2. Employer address**
- 3. Employer Telephone number**
- 4. Employee's rate or rates of pay**
- 5. Tip policy**
- 6. Pay basis = Hour, shift, day, week, commission**
- 7. Established pay day**



# ITEMIZED PAYCHECK EVERY PAY DAY

- 1. Rate or rates of pay**
- 2. Tip payment**
- 3. Pay basis = Hour, shift, day, week, commission**
- 4. Gross wages**
- 5. All deductions for that pay period**

**IS THERE ACCRUAL  
OR PAYMENT OF PSST?**

**PAID SICK  
& SAFE TIME**



**Business has  
more than 4  
full-time equivalent  
employees**

## PAID SICK TIME

- Employee or family member
- Child, grandparent, parent, parent-in-law
- Spouse or domestic partner
- Physical or mental condition
- Doctor, Dental & Eye Appointments

## PAID SAFE TIME

- Employee, family & household members, roommate
- Domestic violence, sexual assault, or stalking
- Employee's workplace or child's school/place of care closed for critical safety issue (e.g. flu pandemic)
- *Not Snow Day*

# PSST ACCRUAL, USE & CARRY OVER

TIER	EMPLOYER SIZE	ACCRUAL	USE	CARRY OVER
Not Covered	4 or <small>fewer</small> FTEs	No accrual, use or carry over requirement. Notice and anti-retaliation provisions apply		
1	More than 4 to 49 FTEs	1 hour/40 hours worked	40 hours	40 hours
2	More than 49 to 249 FTEs	1 hour/40 hours worked	56 hours	56 hours
3	250+ FTEs	1 hour/30 hours worked	72 hours	72 hours
	250+ FTEs (PTO benefit systems)	1 hour/30 hours worked	108 hours	108 hours

# PSST BASICS

- ❖ **Joint Employer**
- ❖ **Benefit Year**
- ❖ **Accrual**
- ❖ **Use and Carry Over**
- ❖ **Vacation and PTO**
- ❖ **Notification of Available PSST Hours**
- ❖ **Record Keeping**
- ❖ **No Retaliation**

# PSST BASICS

## ❖ **(update) Joint Employers**

- Both staffing agency & client can be joint employers of a temp employee

## ❖ **(update) Benefit Year**

- Employers must use a consistent 12 month consecutive period (e.g. calendar year, fiscal year, anniversary date, but not rolling year) for accrual, use and carry over

## ❖ **Accrual**

- Accrual depends on employer tier size; there is no cap on accrual

## ❖ **Use and Carry over**

- Use and carry over depend on employer tier size

# PSST BASICS

## ❖ **Vacation and PTO**

- Employers can use vacation and PTO to meet ordinance requirements, as long as the paid leave can be used in same manner as PSST
- Tier 3 employers with PTO have increased use and carry over requirements

## ❖ **Notification of available PSST hours**

- Employers must provide notice of available PSST hours every pay period, usually on a paystub

## ❖ **(update) Record Keeping – 3 years**

## ❖ **No Retaliation**



# PSST DETAILS

- ❖ **Written PSST Policy**
- ❖ **Waiting Period**
- ❖ **Requesting PSST**
- ❖ **15 increments of Use**
- ❖ **Rate of Pay**
- ❖ **Documentation**
- ❖ **Suspicious of PSST Abuse**
- ❖ **Seasonal Employee**
- ❖ **Occasional Basis Employee**
- ❖ **Waiver**
- ❖ **Cash out**

# PSST DETAILS

## ❖ **(update) Written PSST Policy**

- Employers must provide employees with written PSST policy starting April 1, 2016

## ❖ **Waiting Period**

- Employer can impose a waiting period of 180 calendar days from hire date

## ❖ **Requesting PSST**

- Employee must provide enough information to signal need for covered absence
- “I need to use PSST” or “My child is sick”

## ❖ **(update) 15 minute increments of use**

- If feasible by employer’s payroll system, employers must permit hourly employees to use PSST in 15 minute increments

# PSST DETAILS

## ❖ Rate of Pay

- Employers must pay same rate of pay as employee would have earned while working the shift (exclude tips & commissions, but meet Seattle minimum wage requirements)

## ❖ Documentation for PSST

- Employer can ask for documentation after employee has used PSST for more than three consecutive work days

## ❖ Suspicions of PSST abuse

- Employer can ask for early documentation or deny PSST if clear instance or pattern of abuse

## ❖ Seasonal employee

- Employer must reinstate unused PSST hours if employee separates from work and returns within seven months

# PSST DETAILS

## ❖ (update) Occasional Basis Employees

- Employees who are typically based outside of Seattle and work in Seattle on an irregular basis, must work 240 hours in a calendar year to qualify for PSST
- After meeting this threshold requirement, employee is covered by ordinance for duration of employment for employer and all previous hours worked in Seattle accrue PSST

## ❖ Waiver

- Waiver is prohibited for individual employees
- Waiver is permitted for employees represented by union; waiver must be CBA

## ❖ Cash out

- ❖ Cash out is not required; it is discretionary

**WAS JOB OR PAY  
DENIED DUE TO CRIMINAL  
RECORDS?**

**FAIR CHANCE EMPLOYMENT  
ORDINANCE**

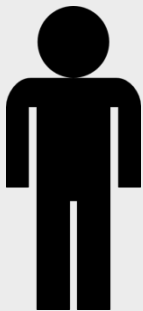


# THIS ISSUE IMPACTS US

## ALL

**Refusing to hire people  
because they have a  
conviction or arrest record has  
a significant impact on  
families and businesses in  
every community.**

With an estimated 70 million adults in U.S. with a record, or nearly 1 in 3 adults, anyone can have a record. Some examples: Martha Stewart, George W. Bush, Bill Gates, and Sir Richard Branson (founder of Virgin Group).



[www.nelp.org](http://www.nelp.org)

# FCE BASICS





# LIMITS ON USE OF CONVICTION & ARREST RECORDS

- 1. No job ads that prohibit conviction or arrest records**
- 2. No job applications with questions about conviction and arrest records**
- 3. No background checks until after the employer screens applicant for minimum qualifications**
- 4. Before denying job based solely on background check, employer must provide applicant opportunity to explain and/or correct conviction arrest records**
- 5. Employer must have a “legitimate business reason” to support denial of job (6 factors)**

# JOB ADS

- ❖ **No exclusionary statements in job ads**
  - ✘ “Felons need not apply”
  - ✘ “No criminal background”
  - ✘ “Must pass background check”
  - ✘ “Must successfully clear background check”
- ✓ **“Hiring process involves background check regarding conviction and arrest records in compliance with Seattle’s Fair Chance Employment Ordinance, SMC 14.17. Applicants will be provided an opportunity to explain or correct background information.”**

# JOB APPLICATIONS

- ❖ **No questions about convictions and arrests on job applications (unless the employer has already screened the applicant for minimum qualifications)**

# DELAY BACKGROUND CHECKS

- ❖ Delay background checks until after an initial screening, usually during or after the interview
  1. **First** - review applicant's skills & experience
  2. **Second** - determine that applicant meets minimum job qualifications
  3. **Third** - ask questions about conviction and arrest records; conduct background checks.
  
- ❖ *This process allows applicants to have a fair chance at being considered for the job*

# OPPORTUNITY TO EXPLAIN & CORRECT

- ❖ **Hold job open for 2 business days**
- ❖ **Identify conviction and arrest records**
- ❖ **Consider explanation, corrections and verifiable information of good conduct & rehabilitation**
  - Written or oral statement from applicant or employee, parole or probation officer, clergy member, social worker, etc.
  - Certificate of rehabilitation, completion or enrollment in an educational or vocational training program, etc.

# LEGITIMATE BUSINESS REASON

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- ❖ **Employer believes in good faith that nature of criminal conduct**
  - Will have a negative impact on the employee's or applicant's fitness or ability to perform the position sought or held, or
  - Will harm or cause injury to people, property, business reputation, or business assets

# LEGITIMATE BUSINESS REASON

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- 1. Seriousness of crime**
- 2. Number and types of convictions or pending charges;**
- 3. Time that has elapsed since conviction or pending charges, excluding periods of incarceration;**
- 4. Verifiable information re: good conduct & rehab;**
- 5. Specific duties and responsibilities of the position; and**
- 6. Place and manner in which the position will be performed.**

# Reporting a violation

# ENFORCEMENT





# PRIVATE RIGHT OF ACTION

- ◆ **PSST, MWO, WT (not FCE)**
- ◆ **April 1, 2016 (50+ employees)**
- ◆ **April 1, 2017 (less than 50 employees)**
- ◆ **Remedy**
  - **Up to 3x unpaid wages**
  - **Up to \$5,000 to aggrieved party for retaliation**
  - **Attorney Fees and Costs**

# INVESTIGATION

- ◆ **Protection of Identifying Information**
- ◆ **Charge or Compliance Letter**
- ◆ **Company-wide Investigation (standard)**
- ◆ **Individual Investigation (retaliation)**
- ◆ **Complaint-based**
- ◆ **Directed (future)**

PSST, MWO, WT VIOLATION(S)	REMEDY OR PENALTY
First Violation	Up to 3x unpaid wages + interest
Subsequent Violations	Mandatory 3x unpaid wages + interest
First Violation	Up to <b>\$500</b> per aggrieved party
Second Violation	Up to <b>\$1000</b> per aggrieved party or <b>10%</b> of unpaid wages, whichever is greater
Third Violation	Up to <b>\$5,000</b> per aggrieved party or <b>10%</b> of unpaid wages, whichever is greater
Subsequent Violation	Up to <b>\$20,000</b> per aggrieved party
Chart of Fines	<b>\$500 to \$1,000 fine</b>
Retaliation	<b>Reinstatement or up to 3x front pay; up to \$5,000 to aggrieved party</b>
Settlement & Mitigation of Penalties	<b>Director Discretion</b>

**FCE VIOLATION(S)****REMEDY OR PENALTY****First Violation****Up to \$500 per aggrieved party****Second Violation****Up to \$1,000 per aggrieved party****Third Violation****Up to \$5,000 per aggrieved party****Chart of Fines****\$500 flat fine to \$1,000 per aggrieved party****Retaliation****Reinstatement or up to 3x front pay; up to \$5,000 to aggrieved party****Settlement & Mitigation of Penalties****Director Discretion**

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