

**HIGHLIGHTS - Wage Theft Prevention and Labor Standards Harmonization Ordinance 2015**

<b>Paid Sick and Safe Time Ordinance</b>	PSST
<b>Job Assistance Ordinance</b>	JAO
<b>Minimum Wage Ordinance</b>	MWO
<b>Wage Theft Ordinance</b>	WT

Private Right of Action – PSST, MWO, WT (not JAO)	
<b>Delayed timeline</b>	April 1, 2016 for business with 50+ employees April 1, 2017 for business with fewer than 50 employees
<b>Remedies</b>	<ul style="list-style-type: none"> <li>▪ Legal &amp; equitable relief without limitation</li> <li>▪ Up to 3x unpaid wages (or compensation) + interest at 12% annum</li> <li>▪ Penalties to aggrieved party for retaliation up to \$5000</li> <li>▪ Attorney fees and costs</li> </ul>
Increased remedies for workers	
<b>PSST, MWO, WT</b>	<ul style="list-style-type: none"> <li>▪ 1<sup>st</sup> violation – discretionary up to 3x unpaid wages (or compensation) +interest</li> <li>▪ Subsequent violations – mandatory 3x unpaid wages + interest at 12% annum</li> </ul>
<b>JAO (i.e. Fair Chance Employment Ordinance)</b>	<ul style="list-style-type: none"> <li>▪ 1<sup>st</sup> violation – mandatory up to \$500 to each aggrieved party</li> <li>▪ 2<sup>nd</sup> violation – mandatory up to \$1000 to each aggrieved party</li> <li>▪ 3<sup>rd</sup> violation – mandatory up to \$5000 to each aggrieved party</li> </ul> <p>Penalties paid to aggrieved party not to OLS.</p>
<b>All Ordinances</b>	<p>Retaliation</p> <ul style="list-style-type: none"> <li>▪ Any appropriate relief at law or equity including but not limited to reinstatement and up to 3x front pay in lieu of reinstatement</li> <li>▪ Additional penalty payable to the aggrieved party up to \$5000</li> </ul>
Strengthened civil penalties for employer violations	
<b>PSST, MWO, WT</b>	<ul style="list-style-type: none"> <li>▪ 1<sup>st</sup> violation – discretionary up to \$500 per aggrieved party</li> <li>▪ 2<sup>nd</sup> violation – mandatory up to \$1000 per aggrieved party</li> <li>▪ 3<sup>rd</sup> violation – mandatory up to \$5000 per aggrieved party</li> <li>▪ Subsequent violations – mandatory up to Max \$20,000 per aggrieved party</li> </ul>
<b>All ordinances</b>	Chart of fines for specific violations in each ordinance
Methods to encourage worker reports of violations	
<b>Increased Protections Against Retaliation</b>	<ul style="list-style-type: none"> <li>▪ Rebuttable presumption of unlawful retaliation if adverse action happens within 90 days of protected activity (rebuttable by clear and convincing evidence from Respondent)</li> <li>▪ Finding of unlawful retaliation when the protected activity is a “motivating factor” in the adverse action</li> <li>▪ Reinstatement or up to 3x front pay, penalty to aggrieved party up to \$5,000, fine to agency \$1000 per aggrieved party</li> </ul>

<b>Confidentiality Requirements</b>	Protection of identifying information of complainant, victim and witnesses during and after investigations, to the extent permitted by law
<b>U-Visa Certification</b>	Employees who report certain wage theft violations to apply for a nonimmigrant status visa for themselves and family members
<b>Methods to quickly recover amount owed to workers - All ordinances</b>	
<b>Mitigation of Penalties</b>	<p>Potential for mitigation of penalties if amount owed to workers paid quickly</p> <ul style="list-style-type: none"> <li>▪ Within 10 days – penalties waived</li> <li>▪ Within 15 days – penalties halved</li> <li>▪ After 15 days – penalties remain</li> </ul>
<b>Collections</b>	<ul style="list-style-type: none"> <li>▪ OLS may refer unpaid orders to collections agency</li> <li>▪ City Attorney can file liens and garnish wages</li> <li>▪ Deposit of funds or bond as interim relief when Director has reason to believe violation has occurred.</li> <li>▪ Business license revocation for unpaid final orders (until the amount is paid in full)</li> <li>▪ City Contract debarment</li> <li>▪ No bidding until the amount in the final order is paid in full</li> <li>▪ No bidding for two years for two or more final orders within five years</li> <li>▪ Debarment provisions in the labor standards ordinances are in addition and separate from debarment provisions in Chapter 20.70 for prevailing wage</li> </ul>
<b>Strengthened and harmonized enforcement procedures – All ordinances</b>	
<b>Enforcement, statute of limitations, key definitions</b>	<ul style="list-style-type: none"> <li>▪ Same enforcement procedure for all ordinances that permits investigations with or without complaints</li> <li>▪ Statute of limitations is 3 years for all ordinances</li> <li>▪ Same definition of “employee” and “employer” to support joint employer liability</li> </ul>
<b>Important Dates</b>	
	<ul style="list-style-type: none"> <li>▪ January 16, 2016             <ul style="list-style-type: none"> <li>○ Estimated date that ordinance goes into effect (ordinance is signed Dec. 17, 2015)                 <ul style="list-style-type: none"> <li>- Increased protections against retaliation</li> <li>- Investigations can use strengthened enforcement procedures and result in increased remedies and penalties for violations</li> </ul> </li> <li>○ PSST                 <ul style="list-style-type: none"> <li>- Employers may use “benefit year” for PSST accrual, use and carry over (any fixed, consecutive 12-month period of time 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)</li> <li>- Temps are considered employees of joint employers (e.g. staffing agency <i>and</i> client employer)</li> <li>- Employees who work in Seattle on an “occasional basis” remain covered for the duration of employment with the employer after they work a threshold 240 hours in a calendar year</li> </ul> </li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>- For hourly, non-exempt employees, employers must permit use of PSST in the smaller of hourly increments or, if feasible by the employer's payroll system, increments that round to the nearest quarter of an hour (i.e. 15 minutes). For overtime exempt employees, employers may permit use of PSST in accordance with state and federal wage and hour laws.</li> <li>- All successor employers must retain previously accrued PSST hours for employees</li> <li>- Employers retain records for three years</li> <li>o JAO             <ul style="list-style-type: none"> <li>- Remedies for job applicant or employee for employer's first violation</li> </ul> </li> <li>o MWO             <ul style="list-style-type: none"> <li>- Work Study participants are not exempted from minimum wage requirements</li> <li>- Schedule size is determined by counting employees worldwide</li> </ul> </li> <li>o WT             <ul style="list-style-type: none"> <li>- Compensation requirements extend to exempt and non-exempt employees</li> <li>- Compensation includes salaries, wages, tips, overtime, commissions, piece rate, bonuses, rest breaks, promised or legislatively-required paid leave, and reimbursement for employer expenses.</li> <li>- Notice of employment information must include specific information about employer's tip policy, including an explanation of any tip sharing, pooling, or allocation policies</li> <li>- Employer records must show total tips for each pay period</li> </ul> </li> <li>▪ April 1, 2016             <ul style="list-style-type: none"> <li>o Private right of action for claims against businesses with 50 or more employees</li> <li>o Workplace poster enforcement for all ordinances</li> <li>o PSST                 <ul style="list-style-type: none"> <li>o Written PSST policy</li> </ul> </li> <li>o WT                 <ul style="list-style-type: none"> <li>o Written "notice of employment information" for all existing and future employees (exempt and non-exempt)</li> </ul> </li> </ul> </li> <li>▪ April 1, 2017             <ul style="list-style-type: none"> <li>o Private right of action for claims against businesses with fewer than 50 employees</li> </ul> </li> </ul>
--	---

Topic	Issue	Description	Type of Revision
<b>Private Right of Action – PSST, MWO, WT (not JAO)</b>			
<b>Private Right of Action</b>	Date of implementation	Effective April 1, 2016 for business with 50+ employees  Effective April 1, 2017 for business with fewer than 50 employees	New PSST, MWO, WT
	Counting employees to determine date of implementation	- Count employees (not FTES) in all employer locations, inside and outside Seattle, and count employees in integrated enterprises	New PSST, MWO, WT
	Remedies	- Legal & equitable relief without limitation - up to 3x unpaid wages (or compensation) + interest at 12% annum - Penalties to aggrieved party for retaliation up to \$5000 - Attorney fees and costs	New PSST, WMO, WT
<b>Agency Investigations - All Ordinances</b>			
<b>Statute of Limitations</b>	3 years	Agency’s investigations have greater scope	Modification for PSST & JAO only - Increased from 180 days
<b>Provisions to encourage reporting of violations</b>	Confidentiality	To the extent permitted by law, the identity of complainant and witnesses is protected during and after the Agency’s investigation	New PSST, JAO, MWO
	U-Visa	Employee who reports certain wage theft violations can apply for <u>nonimmigrant status visa</u> for self & family members. Director can certify the visa application.	New PSST, JAO, MWO
	Notice of Investigation	Employers must post notice that encourages further reporting of violations. Posting in conspicuous and accessible place for employees at workplace or job site is required. If no regular workplace or job site, then employer may provide poster on individual basis in physical or electronic format.	New PSST, JAO, MWO & WT
<b>Retaliation Protections</b>	Any person - Respondent	- No employer or any other person shall interfere with, restrain, or deny the exercise of, or the attempt	New PSST, JAO, MWO, WT

		to exercise, any right protected under this Chapter...	- Added "or any other person" for expanded Respondent
	Any person - Aggrieved Party	- No employer or any other person shall take any adverse action against any person because the person has exercised in good faith the rights protected under this Chapter...	New PSST, JAO, MWO - Added "against any person" to codify inclusive protections against retaliation - "any person," see <a href="#">Thompson vs. North American Stainless Steel, 562 US 170 (2011)</a>
	Adverse Action	- Protections from retaliatory adverse action against any person that may involve any aspect of employment, including pay, work hours, responsibilities, or other material change in the terms and condition of employment	Modification PSST, JAO, MWO & WT  - Broad definition of "adverse action" with numerous examples
	Rebuttable presumption	Rebuttable presumption of retaliation for adverse action within 90 days of protected activity, rebuttable by employer with clear and convincing evidence	New PSST, JAO, MWO  Modification WT - Added "clear and convincing"
	Mixed motive analysis	Adverse action is retaliatory if protected activity is motivating factor	New PSST, JAO, MWO & WT - Standard for analysis is "motivating factor" rather than "substantial factor"
<b>Conducting Investigations</b>	Individual & company-wide investigations	Broad enforcement language that permits investigations with or without complaints (i.e. "directed investigations")	Modification PSST, JAO, MWO & WT - Removed charge process (still in Chapter 40 rules)
	Equitable tolling for statute of limitations	Tolling for civil action, final order of hearing examiner, writ of review ("after all appeals have been exhausted after final order") begins when person files complaint or Agency opens investigation	New PSST, JAO, MWO

	Misclassification burden	Burden for determining contractor vs. employee status is on employer rather than worker	<p>New PSST, JAO, MWO &amp; WT</p> <p>- Ordinance will not identify test for misclassification; rules will identify test</p>
	Employer records	Added 3 years records retention requirement for each employee	Modification PSST, JAO
		Deleted records inspection requirement	New PSST, JAO, MWO & WT
		Added new subpoena process in the "investigation section" for obtaining employer records (includes issuance of subpoena by Hearing Examiner).	New PSST, JAO, MWO & WT
		Added subpoena power for City Auditor's review of employer records (includes issuance of subpoena by Hearing Examiner)	New PSST, JAO, MWO & WT
	Subpoena Process	<p>- Director may apply to Hearing Examiner for subpoenas.</p> <p>- Hearing Examiner will issue subpoenas upon a showing that there is reason to believe that a violation has occurred if a complaint has been filed with the Agency, or that circumstances show that violations are likely to occur within a class of businesses because the workforce contains significant numbers of workers who are vulnerable to violations or workforce is unlikely to volunteer information regarding such violations.</p>	New PSST, JAO, MWO & WT

		- An employer that fails to comply with subpoena may not use such records in any appeal	
	Deposit of funds or bond	Where the Director has reason to believe that a violation has occurred, the Director may order any appropriate temporary or interim relief to mitigate the violation or maintain the status quo pending completion of a full investigation or hearing, including but not limited to a deposit of funds or bond sufficient to satisfy a good-faith estimate of wages, interest, damages, and penalties due. A respondent may appeal any such order.	New PSST, JAO, MWO & WT
<b>Closing Investigations</b>	Director's Order	Includes notice of violation(s), remedies due, ability for respondent to mitigate civil penalties & fines (if applicable), corrective action (e.g. monitored compliance), and rights to appeal.	New PSST, JAO  Modification MWO, WT - Closed gap between notice of violation and determination of remedy. Previously, Director issued notice of violation and had 60 days to determine the remedy. Now, the notice of violation & remedy are combined into a single document called, "Director's Order"
<b>Employee Appeal</b>	Seattle Human Rights Commission	- Removed Seattle Human Rights Commission from appeals	Modification PSST, JAO - Removed reference to SHRC
	Employee Appeal Process	- Director will issue rules with appeal process for all labor standards ordinances (OLS will research best practices across country and gather stakeholder input for employee appeals that provides more parity with	New PSST, JAO, MWO & WT

		employer appeals to hearing examiner)	
<b>Employer Appeal</b>	Hearing examiner	15 days to appeal Director’s Order	New PSST, JAO
<b>Seattle Human Rights Commission</b>	Guidance, Employee Appeals, Hearing Examiner Panel	- Removed reference to Human Rights Commission for PSST & JAO (HRC will not hear appeals and sit on Hearing Examiner Panel - Director rules will establish appeals process	New PSST, JAO  - Removed reference to SHRC (Labor Standards Advisory Commission will provide input on Labor Standards implementation)
<b>Collections</b>	Period for compliance	30 days to comply for settlement, Director’s Order, hearing examiner order, & court judgment	New PSST, JAO, MWO & WT
	Director’s Order	Agency may require posting notice of failure to comply in a form and manner determined by the Agency.	New PSST, JAO, MWO & WT
	Collections	Agency may refer matter to collections agency	New PSST, JAO, MWO & WT
	Court enforcement	Agency may refer matter to City Attorney to file civil action in court of competent jurisdiction.	New PSST, JAO - Agency can file a civil action under Civil Rules for Courts of Limited Jurisdiction (CRLJ). Under CRLJ 3, “A civil action is commenced by filing with the court a complaint signed as required by rule 11.” RCW 35.20.030 provides that “The municipal court shall have jurisdiction to try violations of all city ordinances and



			all other actions brought to enforce or recover license penalties or forfeitures declared or given by any such ordinances.”
	Liens & Garnishing	Upon court judgment, City Attorney can file lien for real & personal property and garnish wages	New PSST, JAO, MWO & WT
	Business License Revocation	Director may request Finance and Administrative Services to refuse to issue, renew or revoke business license	New PSST, JAO, MWO
	Successor Liability	Within 10 days of transfer of a major part of property, any person who becomes successor to the business shall become liable for full amount of final order if successor had actual knowledge or access to prompt, reasonable means of getting the information about the unpaid order.	New PSST, JAO, MWO
<b>Reporting to City Council</b>	Ordinance update	Agency will provide written report to City Council on the implementation and results from the ordinance revisions by the end of July 2016	New
<b>Remedies</b>			
<b>Scope</b>	Failure to comply with any requirement of ordinance is violation	Noncompliance is not limited to just failing to pay wages	New PSST, JAO, MWO
	Remedies are cumulative	Payment of unpaid wages, liquidated damages, civil penalties, penalties payable to aggrieved parties, fines, and interest provided in each ordinance are cumulative and are not intended to be exclusive of any other available remedies, penalties, fines, and procedures.	New PSST, JAO, MWO & WT

	Penalties increase with rate of inflation on annual basis	CPI-W based on metropolitan Seattle-Tacoma-Bremerton Area. OLS shall determine the increased amounts and file a schedule of such amounts with City Clerk.	New PSST, JAO, MWO & WT
	Director’s criteria for determining penalties & mitigation of penalties	For settlement agreement and Director’s Order, Director shall consider: 1. Total amount of unpaid wages, liquidated damages, penalties, fines, and interest due 2. Nature & persistence of violations 3. Extent of respondent’s culpability 4. Substantive or technical nature of the violations 5. Circumstances of each case 6. Amount of penalties in similar cases 7. Size, revenue and HR capacity of respondent 8. other factors pursuant to rules	New PSST, JAO, MWO & WT  - For #1-#6, See <a href="#">Beliz v. W.H. McLeod &amp; Sons Packing Co., 765 F.2d 1317, 1332 (5th Cir.1985)</a>
<b>Remedy for Aggrieved Parties (e.g. employees)</b>	PSST, MWO, WT - Treble Damages	In settlement, Director has discretion for imposing treble damages.  In final order 1 <sup>st</sup> violation – discretionary up to 3x unpaid wages (or compensation) +interest at 12% annum  Subsequent violations – mandatory 3x unpaid wages + interest at 12% annum	New PSST, MWO, WT
	JAO - Monetary penalty payable to aggrieved party (or City if there is no aggrieved party)	In settlement, Director has discretion for imposing this remedy.  In final order, Director must assess.  1 <sup>st</sup> violation – mandatory up to \$500 per aggrieved party	Modification JAO  - Added provision that first violation results in penalty; previously, first violation resulted

		<p>2<sup>nd</sup> violation – mandatory up to \$1000 per aggrieved party</p> <p>3<sup>rd</sup> violation – mandatory up to \$5000 per aggrieved party</p>	only in “notice of infraction”)
	<p>PSST, JAO, MWO &amp; WT - Retaliation</p>	<p>In settlement, Director has discretion to assess legal and equitable relief.</p> <p>In final order - any appropriate relief at law or equity including but not limited to reinstatement and up to 3x front pay in lieu of reinstatement - penalty to the aggrieved party up to \$5000</p>	<p>New PSST, JAO, MWO &amp; WT</p> <p>Modification PSST -Revised emotional distress damages from “up to \$10,000” to “up to \$5,000 for retaliation”</p>
	<p>Counting violations</p>	<p>- Clock for determining number of violations resets after 10 years - First &amp; subsequent violations are based on violations stipulated in settlement agreement or Director’s Order per ordinance</p>	<p>New PSST, JAO, MWO &amp; WT</p>
<p><b>Civil Penalty to City’s General Fund, Ordinance Specific</b></p>	<p>PSST, MWO, WT</p>	<p>In settlement, Director has discretion to impose civil penalties.</p> <p>In a final order 1<sup>st</sup> violation – discretionary up to \$500 per aggrieved party 2<sup>nd</sup> violation – \$1000 per aggrieved party 3<sup>rd</sup> violation – mandatory up to \$5000 per aggrieved party Subsequent violations – mandatory up to Max \$20,000 per aggrieved party</p>	<p>New PSST</p> <p>Modification MWO, WT - Civil penalty for first violation is discretionary</p>
	<p><i>JAO Civil Penalty only goes to City if there is no aggrieved party</i></p>	<p><i>In settlement, Director has discretion for imposing this remedy.</i></p> <p><i>In final order, Director must assess.</i></p> <p><i>1<sup>st</sup> violation – mandatory up to \$500 per aggrieved party</i></p> <p><i>2<sup>nd</sup> violation – mandatory up to \$1000 per aggrieved party</i></p>	<p><i>New JAO</i></p>

		<i>3<sup>rd</sup> violation – mandatory up to \$5000 per aggrieved party</i>	
	Counting violations	<ul style="list-style-type: none"> <li>- Clock for determining number of violations resets after 10 years</li> <li>- First &amp; subsequent violations are based on violations stipulated in settlement agreement or Director’s Order per ordinance</li> </ul>	New PSST, JAO, MWO & WT
<b>Civil Penalty to City’s General Fund, All Ordinances</b>	Fines	<p>Chart of fines for specific violations in each ordinance</p> <p>Examples:</p> <ul style="list-style-type: none"> <li>- \$500 (notice of rights/poster)</li> <li>- \$500 (PSST notification every pay period)</li> <li>- \$500 (PSST written policy)</li> <li>- \$500 per missing record (employer records)</li> <li>- \$1000 per aggrieved party (retaliation)</li> <li>- \$500 (notice of investigation)</li> <li>- \$500 (notice of failure to comply with final order)</li> </ul>	New PSST, JAO, MWO & WT
	Willful failure to comply with notice & posting requirements	<ul style="list-style-type: none"> <li>1<sup>st</sup> violation, \$750 penalty</li> <li>2<sup>nd</sup> violation, \$1000 penalty</li> </ul>	<p>Modification PSST, MWO, WT</p> <ul style="list-style-type: none"> <li>- 1<sup>st</sup> violation increased from \$125</li> <li>- 2<sup>nd</sup> violation increased from \$250</li> </ul> <p>New JAO</p>
	Willful interference with Director or Hearing Examiner	\$1000 to \$5000 (max) penalty	New PSST, JAO -increased from \$500
	Mitigation of Penalties and Fines	Pursuant to rules, if there is a remedy due to an aggrieved party, the Director has discretion to mitigate the amount of penalties and citations due to the Agency in a settlement agreement or Director’s Order.	New PSST, JAO, MWO & WT

		<ul style="list-style-type: none"> <li>- Pay within 10 days = penalties waived</li> <li>- Pay within 15 days = penalties halved</li> <li>- Pay after 15 days = penalties remain</li> </ul> <p>*Mitigation does not apply to penalties payable to aggrieved party (i.e. JAO and retaliation)</p> <p>*Settlement agreement or Director’s Order will specify respondent’s payment method to enable Director to determine whether respondent has actually “paid” remedy due to aggrieved party</p>	
<b>Limits on City Contracts</b>	City Contracts	<ul style="list-style-type: none"> <li>- An employer that is the subject of a final order for which all appeal rights have been exhausted shall not be permitted to bid on any City contract until such amounts due are paid in full. If an employer is the subject of a final order 2x or more within 5 years, the contractor or subcontractor shall not be allowed to bid on any City contract for 2 years.</li> <li>- This subsection is separate from, and in addition to, debarment provisions in Chapter 20.70.</li> </ul>	New PSST, JAO, MWO & WT
<b>Definition</b>			
<b>Common Definitions</b>	Employ	Means to suffer or permit to work.	<p>New PSST, JAO</p> <p>Modification for MWO, WT - Added “suffer”</p>
	Employer	Any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee	Modification - Changed to match MWO & WT
		More than one entity may be the “employer” if employment by one employer is not completely disassociated from employment by the other employer	New PSST, JAO, MWO & WT

			- Language that identifies joint employer liability. See <a href="#">Becerra vs. Expert Janitorial, LLC, 332 P3d 415 (Wash 2014)</a>
Employee	Any individual employed by an employer, and includes but is not limited to full-time employees, part-time employees, and temporary workers.	Modification PSST  New JAO, MWO, WT	
	An employer bears the burden of proof that the individual is in business for oneself rather than dependent upon the alleged employer.	New PSST, JAO, MWO & WT	
Front Pay	Compensation employee would earn or would have earned if reinstated to employee's former position.	New PSST, JAO, MWO & WT	
Rate of Inflation	CPI-W for metropolitan Seattle-Tacoma-Bremerton Area	New PSST, JAO  Modification MWO, WT -Clarified application of metro index	
Successor	Any person to whom an employer quitting, selling out, exchanging, or disposing of a business sells or otherwise conveys in bulk and not in the ordinary course of the employer's business, a major part of the property, whether real or personal, tangible or intangible, of the employer's business.	New PSST, JAO, MWO  Modification WT - Replaced "more than 50%" with "major part"	
Wage	Compensation due to an employee by reason of employment payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by rules of the Director.	New PSST, JAO  Modification WT - Removed definition from WT (because there is a new definition for "compensation")	

**Ordinances**

PSST			
Short title	Paid Sick and Safe Time Ordinance	Formal short title	New
<b>Definitions</b>	Benefit year	<ul style="list-style-type: none"> <li>- 12 fixed consecutive months (i.e. January 1 to December 31, tax year, fiscal year, or contract year; or year running from an employee’s one-year anniversary date of employment)</li> <li>- Employer must provide notice of employer’s choice of benefit year in PSST policy (see notice &amp; posting)</li> <li>- When employer changes benefit year, there must be no loss of accrual, use &amp; carry over of PSST</li> </ul>	Modification (City Auditor recommendation)  - Changed name from “calendar year” to “benefit year”
<b>Employment in Seattle</b>	Occasional Basis employees	<ul style="list-style-type: none"> <li>- Employee who is typically based outside of Seattle &amp; performs work in Seattle on an occasional basis is covered only if employee performs more than 240 hours of work in Seattle within a benefit year.</li> <li>- Once an employee who works in Seattle on an occasional basis performs more than 240 hours of work in City within a benefit year, all previous hours worked in Seattle during that benefit year count toward accrual &amp; employee remains covered by ordinance for duration of employment with that employer</li> </ul>	Modification
<b>Determining Employer Tier</b>	Worked for compensation	Employer tier for current calendar year is based upon average number of full-time equivalents <u>who worked for compensation</u> per calendar week during the preceding calendar year -Number of FTEs for determination of Tier 1-2-3 size remains the same	Modification  - Replaced “paid” with “worked for compensation” to harmonize language in PSST and MWO
	Integrated enterprise	Separate entities in an integrated enterprise shall be an single employer	Modification -Codified an existing rule re: integrated enterprise
<b>Accrual</b>	Successor Employer	When an employer quits, sells out, exchanges, or disposes the employer’s business, or the	Modification - See <a href="#">Filo Foods vs. City of SeaTac</a>

		employer’s business is otherwise acquired by a successor, an employee shall retain all accrued paid sick and safe time and may use such paid leave for work scheduled within the geographic boundaries of the City for the successor employer.	
<b>Use</b>	Breaks in Service	Total time of employment used to determine eligibility must occur within three calendar years	Modification - Changed from 2 to 3 years to harmonize 3 year SOL & record keeping requirement
	Hour Increments	PSST hours shall be used in the smaller of hourly increments or, if feasible by the employer’s payroll system, increments that round to the nearest quarter of an hour. When using quarter-hour increments, employers shall use 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 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.	Modification - Changed from use in hour increments to quarter hour increments with additional protections against absence control policies
<b>Notice &amp; Posting</b>	Workplace poster	Posting in conspicuous and accessible place at job site is required. If no regular job site, then employer may provide poster on individual basis in physical or electronic format.	Modification
	Language requirements for Notice (e.g. poster)	- Employer must display poster in English and primary language spoken by employee(s) - Agency will create translated versions of poster	Modification



	Written Policy	Effective April 1, 2016, Employer must provide individual notice of written PSST policy with employer’s calendar year and policy/procedure for meeting PSST requirements, English only	New (City Auditor recommendation)
<b>Enforcement</b>	Special procedures for “Reasonable Cause” cases against City Departments	Removed because these provisions do not exist for MWO and WT (holdover from civil rights laws)	Modification
<b>Remedy for Aggrieved Party (e.g. employee)</b>	Treble Damages	In settlement, Director has discretion for imposing treble damages.  In final order 1 <sup>st</sup> violation – discretionary up to 3x unpaid wages (or compensation) +interest at 12% annum  Subsequent violations – mandatory 3x unpaid wages + interest at 12% annum	
	Counting violations	- Clock for determining number of violations resets after 10 years - First & subsequent violations are based on violations stipulated in settlement agreement or Director’s Order per ordinance	New
	Retaliation	In settlement, Director has discretion to assess legal and equitable relief.  In final order - any appropriate relief at law or equity including but not limited to reinstatement and up to 3x front pay in lieu of reinstatement - penalty to the aggrieved party up to \$5000	Modification -Revised emotional distress damages from “up to \$10,000” to “up to \$5,000 for retaliation”
<b>Civil Penalty to City’s General Fund</b>		In settlement, Director has discretion to impose civil penalties.  In a final order 1 <sup>st</sup> violation – discretionary up to \$500 per aggrieved party  2 <sup>nd</sup> violation – \$1000 per aggrieved party	New

		<p>3<sup>rd</sup> violation – mandatory up to \$5000 per aggrieved party</p> <p>Subsequent violations – mandatory up to Max \$20,000 per aggrieved party</p>	
<p><b>Civil Penalty to City’s General Fund, All Ordinances</b></p>	Fines	<p>Chart of fines for specific violations in each ordinance</p> <p>Examples:</p> <ul style="list-style-type: none"> <li>- \$500 (notice of rights/poster)</li> <li>- \$500 (PSST notification every pay period)</li> <li>- \$500 (PSST written policy)</li> <li>- \$500 per missing record (employer records)</li> <li>- \$1000 per aggrieved party (retaliation)</li> <li>- \$500 (notice of investigation)</li> <li>- \$500 (notice of failure to comply with final order)</li> </ul>	New
	Willful failure to comply with notice & posting requirements	<p>1<sup>st</sup> violation, \$750 penalty</p> <p>2<sup>nd</sup> violation, \$1000 penalty</p>	<p>Modification</p> <ul style="list-style-type: none"> <li>- 1<sup>st</sup> violation increased from \$125</li> <li>- 2<sup>nd</sup> violation increased from \$250</li> </ul>
	Willful interference with Director or Hearing Examiner	\$1000 to \$5000 (max) penalty	<p>New</p> <ul style="list-style-type: none"> <li>-increased from \$500</li> </ul>
	Mitigation of Penalties and Fines	<p>Pursuant to rules, if there is a remedy due to an aggrieved party, the Director has discretion to mitigate the amount of penalties and citations due to the Agency in a settlement agreement or Director’s Order.</p> <ul style="list-style-type: none"> <li>- Pay within 10 days = penalties waived</li> <li>- Pay within 15 days = penalties halved</li> <li>- Pay after 15 days = penalties remain</li> </ul> <p>*Mitigation does not apply to penalties payable to aggrieved party (i.e. JAO and retaliation)</p>	New

		*Settlement agreement or Director’s Order will specify respondent’s payment method to enable Director to determine whether respondent has actually “paid” remedy due to aggrieved party	
<b>Limits on City Contracts</b>	City Contracts	- An employer that is the subject of a final order for which all appeal rights have been exhausted shall not be permitted to bid on any City contract until such amounts due are paid in full. If an employer is the subject of a final order 2x or more within 5 years, the contractor or subcontractor shall not be allowed to bid on any City contract for 2 years. - This subsection is separate from, and in addition to, debarment provisions in Chapter 20.70.	New
<b>JAO</b>			
<b>Short title</b>	Fair Chance Employment Ordinance	Formal short title that replaces informal short title, “Job Assistance Ordinance”	New
<b>Notice and Posting</b>	Workplace Poster	Effective April 1, 2016, Posting in conspicuous and accessible place at job site is required. If no regular job site, then employer may provide poster on individual basis in physical or electronic format.	New
	Language requirements for Notice (e.g. poster)	- Employer must display poster in English and primary language spoken by employee(s) - Agency will create translated versions of poster	New
<b>Remedy</b>	Monetary penalty payable to aggrieved party (or City if there is no aggrieved party)	In settlement, Director has discretion for imposing this remedy.  In final order, Director must assess.  1 <sup>st</sup> violation – mandatory up to \$500 per aggrieved party  2 <sup>nd</sup> violation – mandatory up to \$1000 per aggrieved party	Modification - Added provision that first violation results in penalty; previously, first violation resulted only in “notice of infraction”)

		3 <sup>rd</sup> violation – mandatory up to \$5000 per aggrieved party	
	Counting violations	- Clock for determining number of violations resets after 10 years - First & subsequent violations are based on violations stipulated in settlement agreement or Director’s Order per ordinance	New
	Retaliation	In settlement, Director has discretion to assess legal and equitable relief.  In final order - any appropriate relief at law or equity including but not limited to reinstatement and up to 3x front pay in lieu of reinstatement - penalty to the aggrieved party up to \$5000	New
<b>Civil Penalty to City’s General Fund, All Ordinances</b>	Fines	Chart of fines for specific violations in each ordinance  Examples: - \$500 (notice of rights/poster) - \$1000 per aggrieved party (retaliation) - \$500 (notice of investigation) - \$500 (notice of failure to comply with final order)	New
	Willful failure to comply with notice & posting requirements	1 <sup>st</sup> violation, \$750 penalty 2 <sup>nd</sup> violation, \$1000 penalty	New
	Willful interference with Director or Hearing Examiner	\$1000 to \$5000 (max) penalty	New -increased from \$500
	Mitigation of Penalties and Fines	Pursuant to rules, if there is a remedy due to an aggrieved party, the Director has discretion to mitigate the amount of penalties and citations due to the Agency in a settlement agreement or Director’s Order.  - Pay within 10 days = penalties waived	New

		<ul style="list-style-type: none"> <li>- Pay within 15 days = penalties halved</li> <li>- Pay after 15 days = penalties remain</li> </ul> <p>*Mitigation does not apply to penalties payable to aggrieved party (i.e. JAO and retaliation)</p> <p>*Settlement agreement or Director's Order will specify respondent's payment method to enable Director to determine whether respondent has actually "paid" remedy due to aggrieved party</p>	
<b>Limits on City Contracts</b>	City Contracts	<ul style="list-style-type: none"> <li>- An employer that is the subject of a final order for which all appeal rights have been exhausted shall not be permitted to bid on any City contract until such amounts due are paid in full. If an employer is the subject of a final order 2x or more within 5 years, the contractor or subcontractor shall not be allowed to bid on any City contract for 2 years.</li> <li>- This subsection is separate from, and in addition to, debarment provisions in Chapter 20.70.</li> </ul>	New PSST, JAO, MWO & WT
<b>MWO</b>			
<b>Short title</b>	Minimum Wage Ordinance	Formal short title	New
<b>Definition</b>	Employee	Removed work study exemption	New -State and federal work study programs are requiring Seattle employers to pay Seattle minimum wage for work study

<b>Employer Schedule Size</b>	Counting employees	Schedule size is based on number of employees worldwide. Deleted “in the United States”	Modification - Changed to match PSST
<b>Notice &amp; Posting</b>	Workplace Poster	<ul style="list-style-type: none"> <li>- Annual update with current rate of minimum wage</li> <li>- Posting in conspicuous and accessible place at job site is required. If no regular job site, then employer may provide poster on individual basis in physical or electronic format.</li> </ul>	Modification
	Language requirements for Notice (e.g. poster)	<ul style="list-style-type: none"> <li>- Employer must display poster in English and primary language spoken by employee(s)</li> <li>- Agency will create translated versions of poster</li> </ul>	Modification
<b>Remedy for Aggrieved Party (e.g. employee)</b>	Treble Damages	<p>In settlement, Director has discretion for imposing treble damages.</p> <p>In final order 1<sup>st</sup> violation – discretionary up to 3x unpaid wages (or compensation) +interest at 12% annum</p> <p>Subsequent violations – mandatory 3x unpaid wages + interest at 12% annum</p>	New
	Counting violations	<ul style="list-style-type: none"> <li>- Clock for determining number of violations resets after 10 years</li> <li>- First &amp; subsequent violations are based on violations stipulated in settlement agreement or Director’s Order per ordinance</li> </ul>	New
	Retaliation	<p>In settlement, Director has discretion to assess legal and equitable relief.</p> <p>In final order - any appropriate relief at law or equity including but not limited to</p>	New

		reinstatement and up to 3x front pay in lieu of reinstatement - penalty to the aggrieved party up to \$5000	
<b>Civil Penalty to City's General Fund</b>	Tiered Civil Penalty structure	In settlement, Director has discretion to impose civil penalties.  In a final order 1 <sup>st</sup> violation – discretionary up to \$500 per aggrieved party  2 <sup>nd</sup> violation – \$1000 per aggrieved party  3 <sup>rd</sup> violation – mandatory up to \$5000 per aggrieved party  Subsequent violations – mandatory up to Max \$20,000 per aggrieved party	Modification 1 <sup>st</sup> violation has discretionary penalty
	Counting violations	- Clock for determining number of violations resets after 10 years - First & subsequent violations are based on violations stipulated in settlement agreement or Director's Order per ordinance	New
	Fines	Chart of fines for specific violations in each ordinance  Examples: - \$500 (notice of rights/poster) - \$500 per missing record (employer records) - \$1000 per aggrieved party (retaliation) - \$500 (notice of investigation) - \$500 (notice of failure to comply with final order)	New
	Willful failure to comply with notice & posting requirements	1 <sup>st</sup> violation, \$750 penalty 2 <sup>nd</sup> violation, \$1000 penalty	New
	Willful interference with Director or Hearing Examiner	\$1000 to \$5000 (max) penalty	New -increased from \$500

	Mitigation of Penalties and Fines	<p>Pursuant to rules, if there is a remedy due to an aggrieved party, the Director has discretion to mitigate the amount of penalties and citations due to the Agency in a settlement agreement or Director’s Order.</p> <ul style="list-style-type: none"> <li>- Pay within 10 days = penalties waived</li> <li>- Pay within 15 days = penalties halved</li> <li>- Pay after 15 days = penalties remain</li> </ul> <p>*Mitigation does not apply to penalties payable to aggrieved party (i.e. JAO and retaliation)</p> <p>*Settlement agreement or Director’s Order will specify respondent’s payment method to enable Director to determine whether respondent has actually “paid” remedy due to aggrieved party</p>	New
<b>Limits on City Contracts</b>	City Contracts	<ul style="list-style-type: none"> <li>- An employer that is the subject of a final order for which all appeal rights have been exhausted shall not be permitted to bid on any City contract until such amounts due are paid in full. If an employer is the subject of a final order 2x or more within 5 years, the contractor or subcontractor shall not be allowed to bid on any City contract for 2 years.</li> <li>- This subsection is separate from, and in addition to, debarment provisions in Chapter 20.70.</li> </ul>	New
<b>WT</b>			
<b>Short title</b>	Wage Theft Ordinance	Formal short title that replaces informal short title, “Administrative Wage Theft Ordinance”	New
<b>Definitions</b>	Compensation	Compensation includes but is not limited to salaries, wages, tips, overtime, commissions, piece rate, bonuses, rest breaks, promised or legislatively-required paid leave,	New - Expanded definition to include more than wages and tips



		and reimbursement for employer expenses.	
<b>Compensation Requirements</b>	Requirement	An employer shall pay all compensation owed to an employee by reason of employment on an established regular pay day at no longer than monthly payment intervals.	Modification - Modified requirement to align with expanded definition of "compensation"  -Established payday and monthly payment intervals. See WACs <a href="#">296-126-023</a> , <a href="#">296-128-035</a>
<b>Notice &amp; Posting</b>	Workplace Poster	Posting in conspicuous and accessible place at job site is required. If no job site, then employer may provide poster on individual basis in physical or electronic format.	New
	Language requirements for Notice (e.g. poster)	- Employer must display poster in English and primary language spoken by employee(s) - Agency will create translated versions of poster	Modification
	Notice of Employment Information	- Effective April 1, 2016, employers must provide notice of employment information for existing employees - Employers must provide notice of changes to such employment information (e.g. pay increase) before such change or as soon as practicable for retroactive changes, pursuant to rules issued by the Director. - Eligibility for overtime added to notice of employment information	Modification  - Changed language about notification of "overtime rate" to "overtime eligibility"
<b>Records</b>	Record Keeping	Record keeping requirements expanded to mirror requirements from state law re: overtime and include requirement to keep records of tips	Modification  - See WAC <a href="#">296-126-050</a> , <a href="#">296-128-010</a> , <a href="#">296-128-020</a> Addt'l requirement to keep records of tips
<b>Remedy for Aggrieved Party (e.g. employee)</b>	Treble Damages	In settlement, Director has discretion for imposing treble damages.  In final order	New

		<p>1<sup>st</sup> violation – discretionary up to 3x unpaid wages (or compensation) +interest at 12% annum</p> <p>Subsequent violations – mandatory 3x unpaid wages + interest at 12% annum</p>	
	Counting violations	<p>- Clock for determining number of violations resets after 10 years</p> <p>- First &amp; subsequent violations are based on violations stipulated in settlement agreement or Director’s Order per ordinance</p>	New
	Retaliation	<p>In settlement, Director has discretion to assess legal and equitable relief.</p> <p>In final order</p> <p>- any appropriate relief at law or equity including but not limited to reinstatement and up to 3x front pay in lieu of reinstatement</p> <p>- penalty to the aggrieved party up to \$5000</p>	New WT
<b>Civil Penalty to City’s General Fund</b>	Tiered Civil Penalty structure	<p>In settlement, Director has discretion to impose civil penalties.</p> <p>In a final order</p> <p>1<sup>st</sup> violation – discretionary up to \$500 per aggrieved party</p> <p>2<sup>nd</sup> violation – \$1000 per aggrieved party</p> <p>3<sup>rd</sup> violation – mandatory up to \$5000 per aggrieved party</p> <p>Subsequent violations – mandatory up to Max \$20,000 per aggrieved party</p>	Modification 1 <sup>st</sup> violation has discretionary penalty
	Counting violations	<p>- Clock for determining number of violations resets after 10 years</p> <p>- First &amp; subsequent violations are based on violations stipulated in settlement agreement or Director’s Order per ordinance</p>	New

<p><b>Civil Penalty to City's General Fund, All Ordinances</b></p>	<p>Fines</p>	<p>Chart of fines for specific violations in each ordinance</p> <p>Examples:                      - \$500 (notice of rights/poster)                      - \$500 per missing record (employer records)                      - \$1000 per aggrieved party (retaliation)                      - \$500 (notice of investigation)                      - \$500 (notice of failure to comply with final order)</p>	<p>New</p>
	<p>Willful failure to comply with notice &amp; posting requirements</p>	<p>1<sup>st</sup> violation, \$750 penalty                      2<sup>nd</sup> violation, \$1000 penalty</p>	<p>Modification                      - 1<sup>st</sup> violation increased from \$125                      - 2<sup>nd</sup> violation increased from \$250</p>
	<p>Willful interference with Director or Hearing Examiner</p>	<p>\$1000 to \$5000 (max) penalty</p>	<p>New                      -increased from \$500</p>
	<p>Mitigation of Penalties and Fines</p>	<p>Pursuant to rules, if there is a remedy due to an aggrieved party, the Director has discretion to mitigate the amount of penalties and citations due to the Agency in a settlement agreement or Director's Order.</p> <p>- Pay within 10 days = penalties waived                      - Pay within 15 days = penalties halved                      - Pay after 15 days = penalties remain</p> <p>*Mitigation does not apply to penalties payable to aggrieved party (i.e. JAO and retaliation)                      *Settlement agreement or Director's Order will specify respondent's payment method to enable Director to determine</p>	<p>New</p>

		whether respondent has actually "paid" remedy due to aggrieved party	
<b>Limits on City Contracts</b>	City Contracts	<ul style="list-style-type: none"> <li>- An employer that is the subject of a final order for which all appeal rights have been exhausted shall not be permitted to bid on any City contract until such amounts due are paid in full. If an employer is the subject of a final order 2x or more within 5 years, the contractor or subcontractor shall not be allowed to bid on any City contract for 2 years.</li> <li>- This subsection is separate from, and in addition to, debarment provisions in Chapter 20.70.</li> </ul>	New