

City of Seattle Office of Labor Standards

SECURE SCHEDULING

effective July 1, 2017



OLS MISSION

Our mission is to advance labor standards through thoughtful **community and **business** engagement, strategic enforcement and innovative policy development, with a commitment to **race and social justice**.**

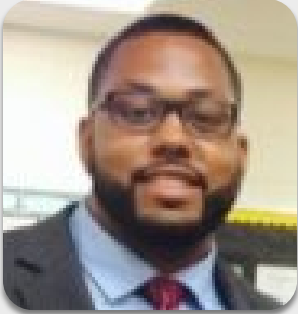
SEATTLE LABOR STANDARDS

- 1. MINIMUM WAGE**
- 2. WAGE THEFT**
- 3. PAID SICK AND SAFE TIME**
- 4. FAIR CHANCE EMPLOYMENT**
- 5. HOTEL EMPLOYEE HEALTH & SAFETY**
- 6. SECURE SCHEDULING**

OLS STAFF



BUSINESS QUESTIONS



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OLS ON-LINE

❖ Web

- <http://www.seattle.gov/laborstandards>

❖ OLS Monthly Dashboard

- Data on outreach & enforcement, 2012 to present
- <http://www.seattle.gov/laborstandards/data>

❖ Secure Scheduling

- Summaries, infographics, links to ordinance & rules
- *Q&As, Templates, Trainings, List of Covered Businesses*

SECURE SCHEDULING

effective July 1, 2017



Predictable schedules that work.

New secure scheduling practices for

Race & social justice

Employee health, safety and welfare

Greater economic security

Increased employee input into scheduling; and

Reduced involuntary part-time work.

HOURLY EMPLOYEES



LARGE FOOD SERVICES & RETAIL



- ❖ **Large food service & retail employers**

- ❖ **Retail** = 2012 NAICS code 441-453998

- ❖ **Food Service** = 2012 NAICS code 722



- ❖ **500+ employees worldwide**

- ❖ **Full Service Restaurants** = additional requirement for 40+ full-service restaurant locations worldwide

NAICS Code = **N**orth **A**merican **I**ndustry **C**lassification **S**ystem

Employers must list the NAICS code when registering for a City of Seattle business license.

NAICS CODE

<http://www.seattle.gov/licenses/find-a-business>

FIND A BUSINESS

Need to look up a business? Search the database for licensed Seattle businesses. You can search by business name, industry type or zip code.

The Seattle business license tax certificate database shows you the following information about a business:

- legal name
- trade name ("doing business as")
- main location address
- phone number
- license tax certificate expiration date
- industry type and Standard Industrial Code (SIC)

City of Seattle Business License Database

Search by Company Name

If you are entering a partial name, please provide as many characters as possible.

Legal Name or Trade Name contains:

Search by Business' Physical Address

Business' physical address contains:

Search by Commodity (NAICS Code)

Search by Zip Code/Neighborhood

- [View the number of Seattle Businesses in the 100 most popular North American Industry Classification System Codes](#)
- [View a list of all North American Industry Classification System Codes and their descriptions](#)

For more information on the Business License Database email: tax@seattle.gov

NAICS CODE

FIND A BUSINESS

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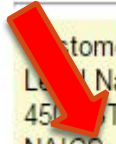
- legal name
- trade name ("doing business as")
- main location address
- phone number
- license tax certificate expiration date
- industry type and Standard Industrial Code (SIC)

City of Seattle Business License Database

Your search found 1 Businesses named **Archie McPhee**.

[Back to Search](#)

Follow the links below to view a list of companies with the same NAICS code.



Customer # (Business license #) : 596812
Legal Name: **ACCOUTREMENTS LLC** Trade Name: **ARCHIE MCPHEE**
4500 TONE WAY N SEATTLE, WA 98103
NAICS: [453220, Gift, Novelty, and Souvenir Stores](#)
License types:
BUSINESS LICENSE **Renewal Date:** 12/31/2016 **Phone:** (425) 349-3838
SCANNING SYSTEM: 4 OR MORE **Renewal Date:** 12/31/2016 **Phone:** (425) 349-3838

SCHEDULING REQUIREMENTS

- 1. Good faith estimate of work schedule**
- 2. Right to request input into work schedule**
- 3. Right to rest between work shifts**
- 4. Advance notice of schedule**
- 5. Compensation for schedule changes**
- 6. Access to hours for existing employees**

GOOD FAITH ESTIMATE

Employer provides written estimate of median number of hours and on-call shifts.

GOOD FAITH ESTIMATE

- 1. Employer provides written information.**
 - ❖ **Median number of hours per work schedule** (over the course of one year divided into three-month periods); and
 - ❖ **On-call shifts.**
- 2. New employees.** Provide GFE at time of hire.
- 3. Existing employees.** Revise GFE once every year and when there is a “significant change” (difference of at least 30% over a three month period) between median hours in GFE and advance work schedule.
- 4. Translations required.** Provide GFE in English and primary language of the employee.

EXAMPLE – GOOD FAITH ESTIMATE

1. Hire date: January 1, 2017
2. Median number of hours over the course of the year

Year begins	January 2017
Quarter One (January – March)	20 hours
Quarter Two (April – June)	20 hours
Quarter Three (July – September)	20 hours
Quarter Four (October – December)	35 hours

3. On-call shifts

Yes	✓
No	

RIGHT TO REQUEST

Employee can request schedule preferences prior to posted work schedule.

RIGHT TO REQUEST

- 1. Employee can request specific times and locations of work.**
- 2. Employer must complete “interactive process” within 3 weeks.**
- 3. Employer can ask for “verifying information.”**
 - ❖ Must inform employee of ability to redact private information.
- 4. Employer has increased obligations for requests due to “major life events.”**
 - ❖ Must grant such requests unless the employer has a bona fide business reason for denial.
 - ❖ Must provide a written response when granting or denying the request.

MAJOR LIFE EVENT

Important, serious or significant event related to the employee's access to the workplace due to



Changes in employee's transportation.



Changes in employee's housing.



Employee's own serious health condition.



Employee's responsibilities as a caregiver.



Employee's enrollment in a career-related educational or training program.



Employee's other job or jobs.

BONA FIDE BUSINESS REASON



Significant & identifiable burden of additional costs.



Significant & identifiable detrimental effect on ability to meet organizational demands

- ❖ A work schedule change that requires an employer to pay additional compensation under a law or written policy (e.g. holiday pay).
- ❖ An action causing employer to violate a bona fide collective bargaining agreement or a seniority system in a written policy;
- ❖ An action causing the employer to displace one or more employee(s) from an existing work schedule arrangement.

RIGHT TO REST

Employer provides additional pay for “**clopenings**” separated by less than 10 hours.

RIGHT TO REST

1. **“Clopening”** - Employee works closing and opening work shifts.
2. **Employee request or consent** - Employer can only schedule clopenings separated by less than 10 hours upon employee request or consent.
3. **Additional pay (i.e. “premium pay”)** - Employer must pay 1.5x the scheduled rate of pay for hours worked that are less than ten hours apart.
4. **Exception** - Additional compensation does not apply to “split shifts.”

ADVANCE NOTICE OF WORK SCHEDULE

Employer provides work schedule

14 days in advance.

EXCEPTIONS

ADVANCE NOTICE OF SCHEDULE

Exceptions for “new and returning employees”

- ❖ Employees with a work schedule change.
- ❖ New employees at time of hire.
- ❖ Transfers, promotions, and new job classifications.
- ❖ Employees who are jointly employed (e.g. employees provided by a staffing agency, contractor, subcontractor, or other employer); and
- ❖ Returning employees from a leave of absence.

PAY FOR SCHEDULE CHANGES

Employer provides additional pay for employer-requested schedule changes (with some exceptions).

PAY FOR SCHEDULE CHANGES

1. Additional pay (i.e. “premium pay”)

- ❖ **Adding hours** = Payment for one hour at the scheduled rate. Pro-rated payment allowed for schedule changes that are less than one hour.
- ❖ **Subtracting hours (including on-call shifts)** = Payment for half the hours not worked.
- ❖ **Grace period = 15 minutes.**

EXCEPTIONS

PAY FOR SCHEDULE CHANGES

Employer DOES NOT provide additional pay for certain schedule changes.

EXCEPTIONS

PAY FOR SCHEDULE CHANGES

- 1. Employee-requested changes**
- 2. Shift swaps**
- 3. Mass communication**
- 4. In-person group communication**
- 5. Access to hours**
- 6. Discipline**
- 7. Operations cannot begin or continue**

EXCEPTIONS

PAY FOR SCHEDULE CHANGES

“Mass communication”

Employer-initiated, written message sent to two or more employees about availability of additional hours due to a scheduled employee not being able to work.

- ❖ **Required information** - Each mass communication must convey
 1. The message is a mass communication;
 2. Accepting the offer of additional hours is voluntary and the employee has the right to decline such hours; and
 3. Accepting such hours does not require the employer to pay additional compensation for work schedule changes.

EXCEPTIONS

PAY FOR SCHEDULE CHANGES

“In-person group communication”

Employer-initiated, discussion with two or more employees about availability of additional hours due to unanticipated customer needs. Hours must be consecutive to current shift.

- ❖ **Required information** - Each in-person group communication must convey
 1. Accepting the offer of additional hours is voluntary and the employee has the right to decline such hours; and
 2. Accepting such hours does not require the employer to pay additional compensation for work schedule changes.

ACCESS TO HOURS

Before hiring **new employees
(including temporary employees)
employers must offer additional
hours of work to current employees.**

ACCESS TO HOURS

Three + Two Days

1. Notice of Hours

- ❖ **Three days** - Employer posts written information about additional hours in noticeable place at worksite for all employees on the payroll

2. Job Offer

- ❖ **Two Days** - Employer offers job to qualified, current employee(s) and allows two days to consider offer.

EXCEPTIONS - ACCESS TO HOURS

**Employer can immediately
hire new employees in
certain situations.**

EXCEPTIONS - ACCESS TO HOURS

1. **Written declination from all existing employees**
2. **Written declination from employees on “access to hours list(s)”**
 - ❖ **Access to hours list** = Written list of employees who receive notice of additional hours available for work. All employees are automatically on the list & can ask to be added or removed at time of hire or during employment. Employer must make list available for viewing to employees upon request.
3. **Hiring programs** = Hours of work that the employer has designated for hiring programs (e.g. diversity, supported employment, young adult programs) affiliated with a government entity or external non-profit organization that has been approved subject to the rules of the Director.

OTHER REQUIREMENTS

- 1. Record keeping**
- 2. Notice and posting**
- 3. Protections against Retaliation**
- 4. Waiver**
- 5. Employees who are jointly employed**

RECORD KEEPING – 3 YEARS

1. **Good faith estimates**
2. **Right to request** – Employer’s grant or denial of employee’s request for schedule preferences, prior to posted schedule, related to major life event.
3. **Advance notice of work schedules**
4. **Compensation for work schedule changes** - Payroll records showing additional compensation paid to each employee.
5. **Exceptions to compensation for work schedule changes**
 - ❖ Mass communications.
 - ❖ Documentation of employee-requested changes.
 - ❖ Documentation of employee discipline.
6. **Access to hours** - Notices for additional hours of work.
7. **Exceptions to access to hours**
 - ❖ **Written confirmation from employees** – Confirmation from all employees, or employees on the access to hours list, that they are not interested in accepting additional hours of work.
 - ❖ **Access to hours list(s)** - Records of employees who have opted out of receiving written notice of additional hours of work.

NOTICE & POSTING

❖ Display SS workplace poster (coming soon)

❖ English and employee's primary language(s)

❖ Download from OLS website
<https://www.seattle.gov/laborstandards/outreach>

❖ Pick-up from OLS & Seattle Customer Service Centers

THESE ORDINANCES COVER ALL EMPLOYERS WORKING INSIDE SEATTLE CITY LIMITS, REGARDLESS OF EMPLOYER'S IMMIGRATION STATUS OR LOCATION OF THEIR EMPLOYER.

2017 Seattle Labor Standards Ordinances

The mission of the Office of Labor Standards is to advance labor standards through thoughtful community and business engagement, strategic enforcement and innovative policy development, with a commitment to race and social justice.



This poster must be displayed in a conspicuous and accessible place at job sites, in English and in the language(s) spoken by employees.

SMC 14.19 Minimum Wage

SETS MINIMUM WAGES FOR EMPLOYEES

Large Employers (\$01 OR MORE EMPLOYEES)

Does the employer pay benefits to the individual employee's medical benefits?

NO	YES
\$15.00	\$13.50
PER HOUR	PER HOUR

Employee Size
Count the employer's total number of all employees worldwide. For franchisees, count all employees in the franchise network.

Medical Benefits
Employee must be enrolled in a silver-level or higher plan as defined by the Federal Affordable Care Act.

An employer cannot pay a reduced minimum wage if the employee declines medical benefits or is not eligible for medical benefits.

SMC 14.20 Wage Theft

PROVIDES PROTECTIONS AGAINST WAGE THEFT

Employers must pay all compensation owed on a regular pay day and give employees written information about their job and pay.

Written information must include:

- Employer's name and contact information.
- Employer's rate of pay, eligibility to earn overtime, pay basis (hour, shift, day, week, commission), and regular pay day.
- Explanation of employer's tip policy.
- Itemized statement of pay information on pay days.

Examples of pay requirements:

- Pay minimum wage.
- Pay overtime.
- Provide work breaks.
- Pay amount promised.
- Pay for work off the clock.
- Pay tips earned.
- Reimburse employer expenses.
- Classify employees correctly; do not misclassify as independent contractors.

SMC 14.17 Fair Chance Employment

LIMITS USE OF CONVICTION AND ARREST RECORDS

Prohibited:

- Job ads that exclude applicants with conviction or arrest records.
- Job applications with questions about conviction or arrest records, unless the employer has already screened the applicant for minimum qualifications.
- Job denial (or other adverse employment action) based solely on an arrest record.

Some exceptions apply, including jobs with unimpeded access to customers under 18, people with developmental disabilities, or retail site adults.

Employers are required to:

- Delay criminal background checks until after screening applicants for minimum qualifications.
- Follow procedures before taking an adverse action based solely on a criminal background check:
 - Provide an opportunity to explain or correct criminal background check information.
 - Hold the position open for at least ten business days.
 - Have a legitimate business reason that employing the person will harm the business or impact the employee's ability to perform the job.

SMC 14.16 Paid Sick & Safe Time

REQUIRES PAID LEAVE FOR MEDICAL OR SAFETY ISSUES

Employers must provide employees with paid leave to care for themselves or a family member.

Sick Time: A physical or mental health condition, including a medical appointment.

Safe Time: Reasons related to domestic violence, sexual assault, stalking or other public safety issues.**

Employee Size (ALL-FULL-TIME, PART-TIME, SEASONAL, CONTRACT, VOLUNTEER)	Paid Sick & Safe Time (PSST) Rates		
	TRIM 1	TRIM 2	TRIM 3
More than 4 and up to 49 FTEs	50 - 249 FTEs	250+ FTEs	
Account of PSST PER 100 HOURS WORKED	1 hour PER 40 HOURS	1 hour PER 40 HOURS	1 hour PER 30 HOURS
One and carry one of SICK and SAFE PER BENEFIT YEAR	40 HOURS	56 HOURS	72 HOURS**

**SAFE TIME CAN ALSO BE USED TO CARE FOR A HOUSEMATE.
 **72 HOURS FOR THE EMPLOYEES WITH A BOND-TIME OFF (PTO) POLICY.

Employers must comply with these laws. Retaliation is illegal.

File a complaint with the Office of Labor Standards

- File a lawsuit* in court on or after:
 - April 1, 2016 for employers with 50 or more employees
 - April 1, 2017 for employers with fewer than 50 employees

*LAWSUITS CAN BE FILED FOR MINIMUM WAGE, WAGE THEFT, AND PAID SICK & SAFE TIME VIOLATIONS.

Confidential & Free Services

- Investigations of complaints.
- Outreach to workers.
- Technical assistance for businesses.
- Resources and referrals.

Language interpretation, translations and accommodations are available.

(206) 684-4500
 seattle.gov/laborstandards

OFFICE OF LABOR STANDARDS 310 THIRD AVE, 3RD FLOOR, SEATTLE, WA 98104 (206) 684-4500 LABORSTANDARDS@SEATTLE.GOV HOURS: 8 AM-5 PM (MON-FRI)

NOTICE & POSTING

Translations

- 1. Employers translate the following documents**
 - ❖ Good faith estimate.
 - ❖ Advance notice of work schedule.
 - ❖ Notice for access to hours.
 - ❖ Workplace poster.
- 2. OLS creates poster and provides templates for translations**

RETALIATION

1. Protections from retaliation

- ❖ Employers may not interfere with any employee right protected by the ordinance.
- ❖ Employees have the right to decline any hours not on the posted schedule.

2. Discipline permitted for certain situations

- ❖ Abuse of employer's requirements for employee-requested work schedule changes and/or preferences PRIOR to posted work schedule; and
- ❖ Failure to comply with, or abuse of, employer's requirements for employee-requested work schedule changes AFTER the posted work schedule.

WAIVER

Waiver allowed in CBA

- 1. Express waiver** - Waiver must be expressly stated in a collective bargaining agreement; and
- 2. Alternative scheduling structure** - Employees must ratify an alternative scheduling structure that meets public policy goals of ordinance

EMPLOYEES WHO ARE JOINTLY EMPLOYED

Special requirements for employees who are jointly employed:

Temporary services provider

Staffing agency

Contractor

Subcontractor

Other employer(s)

EMPLOYEES WHO ARE JOINTLY EMPLOYED

- 1. Joint liability** - Joint employers are individually and jointly responsible for compliance.
- 2. Good faith estimate** - Employers provide a good faith estimate when such employees start each distinct assignment.
- 3. Advance notice of work schedule** - Employers may immediately place such employees on posted work schedules without providing 14 days of advance notice.
- 4. Pay for work schedule changes** - Employers provide additional pay for each work schedule change after such employee has started a distinct assignment.
- 5. Access to hours** - Employers are not required to provide notice of additional hours of work to such employees if they are not on the employer's payroll.

ENFORCEMENT



SOFT LAUNCH

- ❖ **Six months – July 1, 2017 to December 31, 2017**
- ❖ **OLS determines remedy owed to employees.**
- ❖ **OLS supports employer compliance.**
- ❖ **OLS does not impose civil penalties/fines -**
except for egregious violations (i.e. retaliation).

PRIVATE RIGHT OF ACTION

❖ Remedy

- Up to 3x unpaid wages
- Up to \$5,000 to aggrieved party for retaliation
- Attorney Fees and Costs

INVESTIGATION

- ❖ **Protection of Identifying Information**
- ❖ **Company-wide Investigation (standard)**
- ❖ **Individual Investigation (retaliation)**
- ❖ **Complaint-based**
- ❖ **Directed**

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

CHECKLIST

- ❑ **Good Faith Estimate** - Employers provide median number hours and whether employee will work on-call shifts. Employer provide GFE at time of hire, annually, and when there is a significant change.
- ❑ **Right to request input into work schedule** - Prior to the posted work schedule, employees can identify work schedule preferences. Employers must engage in interactive process with employee & grant requests related to major life event unless there is a bona fide business reason for denying the request.
- ❑ **Right to rest between work shift** - Employees earn 1.5x scheduled rate of pay for hours worked that are less than 10 hours between a closing and opening work shift.
- ❑ **Advance notice of work schedules** - Employers provide 14 days advance notice of schedules. Exceptions for new and returning employees.

CHECKLIST

Additional Pay for work schedule changes

- ❖ **Additions** = Payment for one hour of pay at scheduled rate.
- ❖ **Subtractions** = Payment for half the length of work shift that was cancelled or the remaining hours of a work shift that was shortened.
- ❖ **Exceptions** for employee-requested changes, mass communications, etc.

Access to hours for existing employees

- ❖ **Hiring protocol** = Before hiring new employees (including temps), employers must offer addt'l hours of work to current employees. Employers must post notice of addt'l hours for three days and allow existing employees two days to consider job offers.
- ❖ **Exceptions** for receipt of written declination from employees, use of access to hours list, and diversity hire programs.

Record keeping - Three years.

Notice and posting – Workplace poster and certain translations.

Waiver - Collective bargaining agreement can waive requirements. Employees must ratify an alternative scheduling structure that meets policy goals.

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