

## Secure Scheduling Ordinance and COVID-19 -- Frequently Asked Questions & Answers UPDATED 11/16/2020

This document provides answers to questions that you may have about Seattle's Secure Scheduling law as it relates to COVID-19. Please visit the [Office of Labor Standards](#) website for more detailed information.

Do you have a question that isn't covered by this Q&A? Visit our [Secure Scheduling Website](#), call 206-256-5297, or reach us electronically:

- Workers with questions and complaints—submit an [online inquiry](#) or send an email to [workers.laborstandards@seattle.gov](mailto:workers.laborstandards@seattle.gov).
- Employers with requests for technical assistance—submit an [online inquiry](#) or send an email to [business.laborstandards@seattle.gov](mailto:business.laborstandards@seattle.gov).

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Seattle's Secure Scheduling Ordinance establishes scheduling protections for overtime-eligible employees who work in Seattle at **retail or food service employers with 500 or more employees worldwide**. To be covered, full-service restaurants must also have 40 or more full-service locations worldwide. The City of Seattle's Office of Labor Standards administers this ordinance, providing outreach, compliance assistance, and enforcement services to workers and employers.

### **Must an employer pay premium pay to its employees if it cancels shifts for reasons related to COVID-19?**

It depends. In general, if an employer changes an employee's schedule with less than 14 days before the start of the shift, the employer must pay each worker additional compensation unless an exception applies. In the case of COVID-19, the exception for "operations cannot begin or continue" may apply.

### **When does the "operations cannot begin or continue" exception apply?**

An employer is not required to pay additional compensation for a schedule change where the employer cannot open or must close the worksite early due to any of the following reasons:

- i. Threats to employees or property;
- ii. The recommendation of a public official.
- iii. Public utilities fail to supply electricity, water, or gas, or there is a failure in the public utilities, or sewer system;
- iv. Natural disaster;
- v. Weather events; or
- vi. Events that would cause the employer to violate a legal requirement.

### **What is a public official?**

A public official is a government employee that is granted the authority to close a place of business or school. This can include local, state, or federal authorities and public health officials (e.g. Seattle - King County Public Health, the Center for Disease Control, or the State Department of Health) or the superintendent or principal of a public school.

### **What is a recommendation that operations not begin or continue?**

There is not a hard and fast definition, but in general the recommendation must be specific to business operations or so closely linked to the nature of the business that it entails a recommendation for the business not to begin operations or to cease operations.

### **Is there currently a recommendation or order from a public official that operations not begin or continue?**

Yes. On November 16, 2020, Governor Inslee ordered restaurants closed for indoor dining and permitted outdoor dining under [certain restrictions](#), as well as to-go dining. Grocery stores and other retail establishments may remain open so long as they can adhere to certain public health guidance, including social distancing and capacity restrictions.

Other government agencies and officials may also issue recommendations or orders related to business operations during this time. For instance, Seattle- King County Public Health recommendations and orders for businesses and events can be found at the [Public Health Seattle King County website](#). Recommendations and orders from this agency may change. Please check them frequently.

If a business cannot begin operations or must close in order to comply with these recommendations or to comply with an order, the business is not required to pay premium pay to employees.

### **Which businesses are impacted by that recommendation?**

Any business that believes they cannot begin operations or must cease operations in order to comply with current recommendations of public officials.

### **If a restaurant must close its indoor operations under the Governor’s or other public official’s order for all restaurants to close but chooses to continue to provide takeout and delivery services, do premium pay requirements apply for changes to schedules made with less than 14 days’ notice?**

If a restaurant substantially changes its business model such that it is essentially not operating in the way it used to – for example, a restaurant that relies on table service but must switch to only providing takeout and delivery services in response to a public official’s order– the “recommendation from a public official that operations not begin or continue” exception may apply. In this scenario, immediate changes to the schedules of covered employees that are reasonably necessary to comply with the order, such as shifts that are cut to comply with the Governor’s order because the restaurant is not offering table service, fall within the exception and would not incur premium pay. Thereafter, any schedule changes made with less than 14 days’ notice that are not related to the Governor’s order, such as employees being asked to stay late to help out with increased delivery business demands, do not fall within the exception and would incur premium pay.

### **Do premium pay requirements still apply to grocery stores?**

Yes. Under public officials’ orders, as long as grocery stores can adhere to certain public health guidance, including social distancing and capacity restrictions, premium pay requirements still apply. If a business cannot begin operations or must close in order to comply with these recommendations, the business is not required to pay premium pay to employees.

### **What does “operations cannot begin or continue” mean?**

It is impossible or dangerous to open or continue operations.

### **What other exceptions might apply in the COVID-19 context?**

If a business does not begin or closes operations due to fears for employees’ safety, the exception for threats to employees or property would apply. For example, if a business learns two hours before closing that an employee has tested positive for COVID-19, and it decides to close and send all employees home early to ensure their safety, this exception will apply.

### **New! What is a re-opening employer’s obligation to provide employees with a “good faith estimate” of work hours?**

An employer must issue a “good faith estimate” of hours for the returning employees and newly hired employees. A “good faith estimate” is an estimate of the median number of hours that the employee can expect to work each work week for each quarter and whether the employee can expect to work on-call shifts. The good faith estimate must be provided to new employees upon hire, to existing employees once yearly, and when there is a “significant change” to the

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employee's work schedule. OLS incorporated an example of the good faith estimate into the Notice of Employment Information form that employers may use to provide required information to employees under Seattle's Wage Theft ordinance. You can download this form [here](#) or in other languages [here](#). A sample is also excerpted below:

<b>1. Median number of hours per work week (over the course of a year):</b> Year begins: _____ 1 <sup>st</sup> Quarter: _____ 2 <sup>nd</sup> Quarter: _____ 3 <sup>rd</sup> Quarter: _____ 4 <sup>th</sup> Quarter: _____
<b>2. On-Call Shifts:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO

**New! Must an employer give employees 14 days' advance notice of work schedule prior to the re-opening of a covered business after the expiration of a public official's order that closed the business?**

Under most circumstances, an employer must provide employees with 14 days' advance notice of their work schedule. For new employees and for existing employees who are returning to work after a leave of absence, including an absence due to the closure of a business by a public official's order, the employer may provide the employee with a written work schedule that runs through the last date of the existing schedule. Thereafter, the employer must provide 14 days' advance notice of work schedules.

Nonetheless, prior to re-opening, OLS encourages employers to provide its employees with 14 days' advance notice to the extent feasible under the current circumstances.

**Who can I contact if I have more questions about my rights or responsibilities under this law?**

Please call the [Seattle Office of Labor Standards \(OLS\)](#) at [206-256-5297](tel:206-256-5297) or visit our website at <http://www.seattle.gov/laborstandards>. We can answer questions and provide resources!

**Where can I find out more about COVID-19 (formerly called the novel coronavirus) and the steps I can take to prepare?**

Visit the Public Health – Seattle & King County [website](#) for information on COVID-19, which includes an [extensive FAQ](#) and recommendations for preparedness for the general public, schools, workplaces, health care workers and more.

Visit this webpage to [discover resources for communities impacted by Covid-19](#).