

PROPOSED RULES FOR NOTICE AND COMMENT

SEATTLE OFFICE OF LABOR STANDARDS

Seattle Human Rights Rules - Chapter 230

Practices for Administering Cannabis Employee Job Retention Ordinance Requirements Under
Seattle Municipal Code 8.38

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SHRR 230-010 Purpose of Rules

These Rules govern the practices of the Seattle Office of Labor Standards in administering the requirements of the Cannabis Employee Job Retention Ordinance under Seattle Municipal Code (SMC) 8.38.

SHRR 230-020 Practice where Rules do not Govern

If a matter arises in administering the Cannabis Employee Job Retention Ordinance that is not specifically covered by these Rules, the Director of the Seattle Office of Labor Standards shall specify the practices to be followed.

SHRR 230-030 Construction of Rules

These Rules shall be liberally construed to permit the Seattle Office of Labor Standards to accomplish its administrative duties in implementing the Cannabis Employee Job Retention Ordinance, including providing technical assistance, determining if a violation has occurred, and proscribing penalties and remedies.

SHRR 230-040 Severability

These Rules are declared to be separate and severable. If any clause, sentence, paragraph, subdivision, section, subsection, or portion of these rules or the application thereof to any employer, employee, or person or circumstance, is held to be invalid, it shall not affect the validity of the remainder of these Rules, or the validity of the application of the rules to other persons or circumstances.

SHRR 230-050 Force of Law

These Rules supplement the provisions of the Cannabis Employee Job Retention Ordinance and shall have the force and effect of law.

SHRR 230-060 More Generous Practices

Nothing shall be construed as discouraging or prohibiting any employer from adopting or retaining practices that provide more generous employee labor standards than the protections established by SMC 8.38.

SHRR 230-070 Other Legal Requirements

The Cannabis Employee Job Retention Ordinance defines requirements for cannabis employee protections and shall not be construed to preempt, limit, or otherwise affect the applicability of any

other law, regulation, requirement, policy, or standard that provides for greater requirements; and nothing in SMC 8.38 shall be interpreted or applied so as to create any power or duty in conflict with federal or state law. Nor shall SMC 8.38 be construed to preclude any person aggrieved from seeking judicial review of any final administrative decision or order made under SMC 8.38 affecting such person.

SHRR 230-080 Definitions

Definitions are consistent with those in SMC 8.38.020 and are supplemented by the following definitions.

1. **“Primary language”** means the language in which the employee feels most comfortable communicating. The Office of Labor Standards shall create and make available translated versions of the Notice of Rights. Employers are not required to provide the Notice of Rights in languages other than English until the Office of Labor Standards makes the necessary translation available. Employers are encouraged to notify OLS of the need for additional translations.
2. **“Same business type”** means a cannabis business that is licensed or required to be licensed by the Washington State Liquor and Cannabis Board or the City of Seattle in the same license category under SMC 6.500. Specifically, the Washington State Liquor and Cannabis Board and SMC 6.500.020 defines four license categories: “cannabis processor,” “cannabis producer,” “cannabis retailer,” and “cannabis transporter.” Different tiers within the “cannabis producer” license category are considered the same business type.
3. **“Written”** or **“writing”** means a printed or printable communication in physical or electronic format, including but not limited to a communication that is transmitted through email, text message, or a computer or mobile system, or that is otherwise sent and maintained electronically.

SHRR 230-090 Preferential Hiring

1. **In general.** The outgoing cannabis employer shall provide a preferential hiring list, which includes the names, addresses, dates of hire, and job classifications for all covered employees. The incoming cannabis employer shall hire from the preferential hiring list for the period defined in SMC 8.38.060.B.2. The incoming cannabis employer must hire by seniority within each job classification to the extent that comparable job classifications exist.
2. **Information accuracy and completeness.** The outgoing employer shall provide complete information listed in SHRR 230-090.1 for all covered employees and consult with the employees to ensure their information is accurate on the day when the list is transferred to the outgoing employer. If available, the list shall include a mailing address, an email address, and a list of all job classifications with beginning and end dates (if applicable) for each employee.
3. **Comparable job classification.** An incoming employer shall determine whether a job classification at their business is comparable to a job classification listed by an outgoing employer based on the comparability of (1) job duties; and (2) the skills, experience, training, or certifications required to perform each job classification. An outgoing employer job classification shall still be comparable to an incoming employer job classification if the outgoing employer job classification has more expansive job duties, skills, training, or certification requirements. The incoming employer shall hire

employees by seniority within the same job classification first. After exhausting employees on the preferential hiring list in the same job classification, the incoming employer shall hire by seniority from comparable job classification(s).

4. **Seniority.** “Seniority,” as used in SMC 8.38.060.B.2 and 8.38.060.E.1, is determined by the employee’s seniority within their most recent job classification. If the employee’s job classification seniority is unavailable to the incoming employer, the employee’s seniority is determined by the employee’s date of hire as indicated on the outgoing employer’s preferential hiring list.

SHRR 230-100 Offer of Employment

1. **In general.** If the incoming cannabis employer extends an offer of employment to an employee, the offer shall be in writing and remain open for at least ten business days.
2. **Business day.** “Business day” means a day upon which normal business operations are conducted by the employer.
3. **Delivery by personal service or in-person delivery.** If the written offer of employment is delivered in person, the ten-business day period referenced in SMC 8.38.060.C begins on the day following the day the written offer is hand delivered to the employee.
4. **Email or electronic delivery.** If the written offer of employment is delivered by email or other electronic delivery(e.g. text message, a computer or mobile system, and any other communication that is sent and maintained electronically), the ten-business day period referenced in SMC 8.38.060.C begins on the day following the day the written offer is delivered to the employee.
5. **By mail, mail delivery service, or mailbox.** If the written offer of employment is delivered by mail or mail delivery service, or left in a mailbox for pickup by the U.S. Postal Service, the ten-business days period referenced in SMC 8.38.060.C begins on the third day following the day the written offer is placed in the mail or mailbox, or provided to the mail delivery service.

SHRR 230-110 Discharge from Employment for Just Cause

1. **In general.** If the employee accepts the written job offer, the incoming cannabis employer shall retain that employee for no fewer than 90 calendar days following the employee’s employment commencement date. During this 90-day transition employment period, the incoming cannabis employer shall only discharge an employee for just cause.
2. **Discharge an employee for just cause.** Discharge of an employee for just cause requires that a fair and objective investigation produced evidence that the employee violated a reasonable and consistently applied workplace standard of which the employee knew or reasonably should have known, and that discharge was reasonably related to the seriousness of the employee’s conduct and was the consistently applied punishment for a violation of that workplace standard.

SHRR 230-120 Notices and Posting

1. **Notice of change in control.** Employers shall provide the written notices of the change in control required by SMC 8.38.050.B. The written notice of the change in control shall be posted in a conspicuous place so as to be readily viewed by employees and all applicants for employment.
2. **Integrated enterprise.** Employers shall give written notice to employees of the name and any trade (“doing business as”) names used by any associated integrated enterprise according to the schedule established in SHRR 230-120.2.a-.b. Such information shall be included in the written notice of employment information required by SMC 14.20.025.D.
 - a. For existing employees as of the effective date of SMC 8.38, employers shall provide the written notice of employment information no later than July 19, 2023.
 - b. For employees hired by an employer after the effective date of SMC 8.38, employers shall provide the written notice of employment information at time of hire.

SHRR 230-130 Non-Disclosure

1. **Non-disclosure.** In accordance with SMC 8.38.150.B.1, information that would tend to identify complainants, victims, or witnesses who have furnished information to the Seattle Office of Labor Standards regarding alleged violations of law and who have requested non-disclosure at the time of the complaint shall be protected from disclosure, to the maximum extent permitted by applicable laws, except as provided in SHRR 230-130.2.
2. **Agreement to disclose.** Unless otherwise required by law, or a valid disclosure has been made by other means, the identification of persons described in SHRR 230-130.1 may only be disclosed under these Rules pursuant to an agreement to disclose such information between the person to be identified and the Director.

SHRR 230-140 Enforcement

The enforcement practices and procedures for these ordinances are determined by the Seattle Office of Labor Standards Rules, Chapter 140.

SHRR 230-150 Effective Date

These Rules shall take effect on date that they are filed with the City of Seattle Clerk or July 19, 2023, whichever is earlier.