

Frequently Asked Questions: City of Seattle Paid Sick Time and Safe Time Ordinance



As of September 1, 2012, employees working in Seattle accrue paid sick and paid safe time (PSST) for use when an employee or family member needs to take time off from work due to illness or a critical safety issue. The ordinance applies to employers with more than four full-time equivalent employees. All employees are eligible for the benefit, including full time, part-time and temporary workers.

The Office of Labor Standards (OLS), a division within the Seattle Office for Civil Rights (SOCR) is responsible for administering the PSST ordinance. OLS provides technical assistance to employers and employees and investigates complaints of ordinance violations.

This Frequently Asked Questions (FAQ) sheet addresses some of the most common questions about the ordinance. Do you have a question that isn't covered by this FAQ? Contact our office at 206-684-4500. Employers can submit questions to ocr_psstquestions@seattle.gov. Employees can submit questions on our [online intake form](#).

A. General provisions

1. What does the ordinance do?

[Seattle Municipal Code \(SMC\) 14.16](#) establishes minimum standards for employers to provide PSST to employees who work within Seattle City limits. The ordinance also prescribes penalties, remedies and enforcement procedures.

2. When did the PSST ordinance take effect?

The PSST ordinance took effect on September 1, 2012.

3. Which City department is responsible for administering and enforcing this ordinance?

The Office of Labor Standards, a division within the Seattle Office for Civil Rights, is responsible for administering the ordinance. OLS also provides technical support to employers and employees. For more information, please call 206-684-4500. Employers can submit questions to ocr_psstquestions@seattle.gov. Employees can submit questions on our [online intake form](#).

4. What is the difference between sick time and safe time?

An employee can use **sick time** for the following reasons:

- An employee's mental or physical illness, injury, health condition, need for medical diagnosis care or treatment of a mental or physical illness, injury or health condition, or an employee's need for preventive medical care.
- An employee needs to provide care for a family member with an illness, injury or medical appointment, etc.

An employee can use **safe time** for the following reasons:

- An employee's place of business has been closed by order of a public official to limit exposure to an infectious agent, biological toxin or hazardous material.

- An employee needs to care for a child whose school or place of care has been closed by order of a public health official to limit exposure to an infectious agent, biological toxin or hazardous material.
- For reasons related to domestic violence, sexual assault or stalking that affect the employee or the employee's family member.

5. **The address for an employer says Seattle, but the [map on your web site](#) shows that it is outside of city boundaries. I'm confused – is the employer inside or outside of Seattle?**
Trust the map. The federal government requires postal addresses in unincorporated areas to include the name of the nearest city – so some addresses read "Seattle" even though they're located outside Seattle city limits.

Here's how to use [the interactive map](#): On the left side of the page, scroll down to "Zoning" (the third section) and click on "Detailed Zoning." That click will add shading to all areas within Seattle city limits. The color of the shading doesn't matter – any shading that shows up will be Seattle.

Want to check a specific address? Enter the address in the open field at top left of the page. Click on "Building Outlines" in "Base Map Layers" to view specific lots; zoom in on the map itself to read street names.

B. Employees

1. Which employees are covered by the PSST ordinance?

Employees are covered if they perform full-time, part-time or temporary work within Seattle city limits. Employees who occasionally work in Seattle are covered if they perform more than 240 hours of work in Seattle within a calendar year.

Example #1: Nicole works as a bartender for a restaurant in Seattle for 30 hours per week. Nicole is a covered employee because she performs part-time work in Seattle.

Example #2: Sanford is a sales rep located in Spokane, WA. From time to time, his work takes him to Seattle for meetings and conferences on an ad hoc basis. Sanford is a covered occasional employee – he must work 240 hours in Seattle within the calendar year to be eligible to begin accruing and using PSST. (*See below for more information on occasional employees.*)

2. Does coverage include all government employees who work in Seattle?

Only City of Seattle employees are covered by the ordinance. Federal, state and other local government employees are not covered.

Example #1: Kim works for the Seattle Department of Transportation. She is covered by the ordinance because she is a City of Seattle employee.

Example #2: Scott works for the University of Washington at the Seattle campus. He is not covered by the ordinance because he is a state employee working for a state institution.

Example #3: Lars works as a Metro bus driver in the Seattle area. He is not covered by the ordinance because he is a King County employee.

3. Does coverage include work study participants who work in Seattle?

No. Participants in work study programs are not covered by the Ordinance. Work study means a job placement program that provides students in secondary or post-secondary educational institutions with employment opportunities for financial aid and/or vocational training.

Example #1: Theresa is a student in a culinary program and is working at a restaurant for school credit. Theresa is not covered by the Ordinance because she is a work study participant.

Example #2: Damien is a high school student who found a part-time job at a children's summer day camp. He is writing a paper about his experiences, but Damien is not a work study participant and therefore his part-time work is covered by the Ordinance.

For more information about the classification of work study participants, visit the [US Department of Education Web site](#) or the [Washington State Work Study Program](#) web sites.

4. What about interns?

Paid interns are covered by the Ordinance (unless they are work study participants); unpaid interns are not covered.

5. Are volunteers covered by the Ordinance?

No, only employees are covered. In some circumstances, however, volunteers might be considered employees. For example, volunteer firefighters who receive compensation for their work. OLS will use Fair Labor Standards Act (FLSA) criteria to determine this issue on a case-by-case basis. [For more information click here.](#)

6. Does PSST coverage include independent contractors?

No. The Ordinance only applies to employees. OLS will determine on a case-by-case basis if someone is an employee or an independent contractor, using the "Economic Realities Test" that is used by Fair Labor Standards Act (FLSA) and the Washington State Minimum Wage Act (MWA). Under the economic realities test, factors for distinguishing an employee from an independent contractor include the:

- Degree of control that the business has over the worker.
- Worker's opportunity for profit or loss depending on the worker's managerial skill.
- Worker's investment in equipment or material.
- Degree of skill required for the job.
- Degree of permanence of the working relationship.
- Degree to which the services rendered by the worker are an integral part of the business.

7. Who can I contact to clarify whether someone is an employee, a contractor or an employer?

The Small Business Liaison at Washington State Department of Labor and Industries is a resource for answers to questions about small businesses. Call 800-987-0145 or visit www.SmallBusiness.Lni.wa.gov.

8. What about owners, partners, shareholders or board members? Are they counted as employees?

OLS will decide on a case-by-case basis if owners, partners, shareholders or board members should be counted as employees, using [EEOC's Covered Parties Guidance](#). That guidance cites a number of considerations, including whether the:

- Employer has the right to control when, where, and how the worker performs the job.
- Work does not require a high level of skill or expertise.
- Employer furnishes the tools, materials, and equipment.
- Work is performed on the employer's premises.
- Worker and the employer have a continuing relationship between them.
- Employer has the right to assign additional projects to the worker.
- Employer sets the hours of work and the duration of the job.
- Worker is paid by the hour, week, or month rather than the agreed cost of performing a particular job.
- Worker does not hire and pay assistants.
- Work performed by the worker is part of the regular business of the employer.
- Employer is in business.
- Worker is not engaged in his/her own distinct occupation or business.
- Employer provides the worker with benefits such as insurance, leave, or workers' compensation.
- Worker is considered an employee of the employer for tax purposes (i.e., the employer withholds federal, state, and Social Security taxes).
- Employer can discharge the worker.
- Worker and the employer believe that they are creating an employer-employee relationship.

Example #1: Janelle works for an accounting firm and holds the title of partner. The firm pays her a salary and she is supervised by an individual at a higher level. Janelle receives a share of the firm's profits in addition to her salary, but she does not have any input into decisions made by the firm, which are made by higher-level partners. While Janelle has the title of partner, she should be counted as an employee for PSST purposes.

Example #2: Chris is an officer with a small corporation. He is the head of one of the corporation's divisions and has no supervisor, although his actions are reviewed by the Board of Directors. He does not draw a salary, but receives a share of the corporation's profits. Chris has the right to vote on decisions taken by the corporation, although his vote does not count as much as those of other individuals. Chris is considered to be an employer for PSST purposes.

9. Are undocumented employees entitled to PSST under the ordinance?

All employees who perform work in Seattle are covered, including employees who are not legally authorized to work in the United States. In line with City of Seattle policy, OLS and SOCR do not ask people about their immigration status, and we investigate complaints without regard to an individual's immigration status.

10. Does the Ordinance cover household employees like nannies, cooks, maintenance workers, gardeners, etc.?

Yes, if more than 4 full time equivalent employees are employed in the household. In such a case, the employer would be considered a Tier One employer.

11. Will tracking an exempt employee's hours jeopardize the employee's exempt status under the FLSA and state minimum wage?

Federal and state minimum wage laws permit employers to track the hours of exempt employees. Tracking hours does not conflict with federal and state minimum wage laws as long as the employer guarantees the employee his/her annual salary, regardless of tracked hours. Click [here \(U.S Department of Labor\)](#) and [here \(Federal Register\)](#) for more information.

12. Are family members who work for a parent, spouse or child covered by the Ordinance?

To answer this question, first determine if a family member is an employee, as opposed to someone just "helping out." Employees are covered by the Ordinance.

13. Does the Ordinance cover employees based outside of Seattle who work in Seattle on an occasional basis?

Yes, the Ordinance applies to "occasional basis employees" – employees who work primarily outside the City of Seattle, but who work inside the city limits on an ad hoc, irregular basis. Only the hours worked in Seattle count toward accrual of PSST, and an employee who wants to use accrued PSST hours can do so only if s/he is working in Seattle during that time.

Example #1: Jamal works for a company based in New York. He lives in New York, but occasionally travels to Seattle to lead training seminars. The hours that Jamal works in Seattle count toward accrual of PSST. Jamal's employer must provide PSST to Jamal if he accrues more than 240 hours of work in Seattle within a calendar year. The hours that Jamal works in New York do not count toward the minimum number of hours to qualify for PSST in Seattle.

Example #2: Ricardo works as a security guard. His company is based in Seattle, but Ricardo receives assignments to different locations throughout the region – Seattle, Everett, Shoreline, etc. Although his employer is based in Seattle, Ricardo is covered only for the hours that he works in Seattle – his Everett or Shoreline hours do not count for accrual or use of PSST.

Example #3: All-Star Uniforms is based in Tukwila. The company sends sales representatives to Seattle to market merchandise to local businesses and deliver uniforms. While the sales representatives are performing work in Seattle, they are accruing hours that will count toward their 240-hour qualification for PSST. If the sales representatives qualify for PSST, All-Star Uniforms is only required to permit use of the paid leave for work scheduled in Seattle.

14. An employee works as an electrician for a company based in Issaquah. Normally the employee works outside Seattle, but the employee has just been scheduled to work for

the next two months at a site in Seattle. Does the employee have to work 240 hours before he is covered by the Ordinance and begins to accrue PSST?

If the employee is on a regular schedule to work in Seattle, then the employee is not an occasional basis employee. The employee will accrue PSST from the start of this period of work in Seattle, and is eligible to use it immediately, provided that 180 calendar days have passed since the employee's hire date with your employer.

Example #1: Carla works for an employer that operates stores in Renton and Seattle. Carla primarily works for the Renton store, but she also works some regularly scheduled shifts in Seattle. Because these shifts are regularly scheduled, Carla is considered a part-time employee in Seattle, and the hours that she works in the Seattle store immediately count toward her accrual of PSST. Carla's employer is only required to permit Carla's use of PSST for the work scheduled in Seattle, not Issaquah.

15. An occasional basis employee who works once or twice a month in Seattle has reached her 240-hour threshold, and has begun to accrue PSST. Does she have to re-qualify next year by working another 240 hours?

Eligibility as an occasional basis employee remains in effect for the year that an employee reaches that threshold plus the following year – but not the year after that.

Example #1: Clara is an occasional employee in Seattle. She works 240 hours in 2013 and becomes eligible to accrue and use PSST. She remains eligible in 2014. In 2014 she again works 240 hours in Seattle, and so remains eligible to accrue and use PSST in 2015.

Example #2: Nolan is an occasional employee in Seattle. He works 240 hours in 2013, becomes eligible to accrue and use PSST, and remains eligible in 2014. In 2014, however, he only works 190 hours in Seattle. In 2015, Nolan is not eligible to accrue and use PSST unless he works 240 hours in Seattle in 2015; at that point he will be eligible once again to accrue and use PSST.

16. An employee works from time to time in Seattle. How does he figure out if he is an "occasional basis" employee, or just someone who works part-time there? When does the 240-hour rule come into play?

Is the employee's work in Seattle on a regularly scheduled basis (for example, one shift every two weeks) even if it's only for a temporary period? Then he is a regular basis Seattle employee, and he does **not** need to satisfy the 240-hour requirement.

Does the employee work in Seattle on an irregular basis (for example, a sales rep who works in Seattle once or twice a month, but not on a regular schedule)? Then he is an occasional-basis Seattle employee, and he **does** need to satisfy the 240-hour requirement.

17. An employer runs a trucking company based outside Seattle. The drivers make deliveries all over King County, including Seattle. Is there a way for the employer to estimate the time for trips in Seattle, so she doesn't have to track her drivers' trips by the minute?

Yes. Develop written policies that specify standard time estimates for trips in Seattle and use them to tally your drivers' hours in Seattle. You may add time to standard estimates to accommodate unforeseen circumstances (e.g. flat tire, traffic accident) or cushion the trip estimates with extra time to account for such circumstances.

18. How should employers track the hours of occasional basis employees?

Employers are responsible for tracking the hours of employees who work occasionally in Seattle, as well as for notifying them of hours worked toward the 240-hour threshold. Employers are free to implement their own internal system to track these hours. A few suggestions:

- Employers may delegate the recording task to employees, and set up a system for employees to report that information to the employer.
- Employers can establish a set “schedule” of times for certain tasks (such as making a delivery, handling sales calls etc.) that are common to their lines of business.

19. Who is responsible for tracking the hours of an occasional basis employee: the employer or the employee?

Employers may require their employees to track their own hours – especially if the employee’s work involves frequent passages in and outside Seattle city limits. Employers ultimately are responsible for providing employees with information about the Ordinance and ensuring that employees know how track their hours and have the means to do it.

20. Does the 180-day waiting period apply to accrual, use or both?

The 180-day waiting period applies to **use** of accrued PSST hours, not to accrual. Here’s how the 180-day waiting period works:

- After September 1, 2012, **all** covered employees begin to accrue PSST from their first day of work.
- Employers may impose a 180-day waiting period before new employees can begin to use their accrued PSST. The 180-day waiting period is not mandatory. Employers are free to eliminate a waiting period or impose a period that is less than 180-days.
- This waiting period is retroactive; employers should count calendar days after date of hire **prior** to September 1, 2012.

Example #1: Janelle began working on February 15, 2012. She has already worked for 180 days, and therefore can use her accrued PSST immediately.

Example #2: Simeon began working on October 1, 2012. He began to accrue PSST on his first day, but his employer can impose up to a 180-day waiting period before he can use his accrued hours – on or around April 1, 2013.

21. What is the “240-hour provision” for occasional basis employees? How is it different from the “180-day provision?”

The 240-hours provision **only** applies to occasional basis employees – i.e. people who work primarily outside Seattle, but who perform work inside the city limits on an adhoc, irregular basis. Occasional basis employees must work a total of 240 hours within Seattle before they begin to accrue PSST.

The 180-day provision applies to **all** employees who are eligible to accrue PSST. Employees begin to accrue PSST from their date of hire, but 180 days must transpire from date of hire for the employee to have a right to use accrued PSST. The timeline for this waiting period extends to hire dates before September 1, 2012.

Example #1: Jim is a driver for a delivery company based in Edmonds. His routes are mostly outside Seattle, but occasionally he makes deliveries within Seattle city limits. The hours that Jim works in Seattle count toward his 240-hour threshold as an occasional basis employee. Once he reaches that threshold, he is eligible to accrue PSST based on other hours that he works in Seattle during that calendar year.

Example #2: Maria just started working for Qwikwich, a sandwich shop at 143rd and Aurora. Because her workplace is inside Seattle's city limits, she is eligible to begin accruing PSST starting on her first day of work. But her employer can require Maria to wait up to 180 days before allowing her to use any of her accrued PSST.

C. Employers

1. Which employers are covered by the PSST ordinance?

All employers with employees performing work in Seattle are covered by some aspects of the ordinance (such as the anti-retaliation provision of the law). However, only employers **with more than 4 "full-time equivalent employees" (FTEs)**, are required to provide PSST to their employees. An employer's specific obligations depend on the number of FTE employees:

- **Tier One** – Employers with an average of more than 4 to 49 FTEs per calendar week during the previous calendar year.
- **Tier Two** – Employers with an average of 50 to 249 FTEs per calendar week during the previous calendar year.
- **Tier Three** – Employers with an average of 250 or more FTEs per calendar week during the previous calendar year.

Note: Tier size is determined by the employer's number of FTEs, not the number of individual employees.

2. What does the ordinance mean by "full time equivalent" (FTE)?

"Full time equivalent" (FTE) refers to the number of hours worked for compensation that add up to one full-time employee, based either on a 40-hour work week or on how an employer defines "full-time" in writing or practice.

3. How is an employer's tier size calculated?

To calculate an employer's tier size, count the average number of FTEs compensated per calendar week during the previous calendar year for any and all weeks during which at least one employee worked for compensation. All employees are counted for FTE determination, including:

- Full-time employees.
- Part-time employees.
- Temporary employees.
- Employees who are made available by a temporary service, staffing agency or similar entity.
- Employees who work outside of Seattle.

4. How do new employers determine the number of FTEs?

Employers with no employees during the previous calendar year determine their tier size by calculating the average number of FTEs paid per calendar week during the first 90 days of the current year of business.

5. If an employer has both Seattle and out-of-state employees, does the employer need to count all employees to determine tier size?

Yes. To determine tier size, employers must count the compensated hours of **all** employees (full-time, part-time, and/or temporary) who perform work both in Seattle and outside the city.

Example: NW Food Company is headquartered in Oregon and has locations in Portland, Seattle, and Boise. To determine tier size, NW Food Company must count the compensated hours of its employees in all three locations – even though only employees who work in Seattle are eligible to accrue PSST.

6. An entrepreneur owns a hair salon, a barber shop, and a café as separate businesses. To determine tier size, should the employer consider each of these businesses as completely separate from one another, or do they count as one business?

Separate entities that form an integrated enterprise are considered to be a single employer under the ordinance – for example, a single entrepreneur with multiple businesses or a corporation with subsidiaries in Seattle.

To help decide this question, employers should assess the degree of control exercised by one entity over the operation of another entity. The factors in this assessment include, but are not limited to:

- Degree of interrelation between the operations;
- Degree to which the entities share common management;
- Centralized control of labor relations; and/or
- Degree of common ownership or financial control over the entities.

7. Does the owner of a local independent franchise need to include all the employees of other franchises across the country to determine tier size?

It depends on the relationship between the local franchise and the national company. In many cases, local franchises of national companies are individually owned and operated, and therefore would not be considered an integrated enterprise.

8. Do regional councils qualify as “local governments” under the ordinance?

Yes. The PSST ordinance does not apply to employees of regional councils.

9. Does this new law mean that employers need to provide health insurance for their employees in Seattle?

No. The ordinance does not require employers to provide health insurance for their employees. The ordinance requires employers to provide their employees with PSST.

10. If an employer does not provide other benefits to employees, does the employer still have to comply with the ordinance?

Yes. Employees are covered by the ordinance even if an employer does not provide other benefits to employees.

11. Can employers offer more generous PSST policies than required by the Ordinance?

Yes. The ordinance sets the minimum requirements for PSST; it does not prevent employers from establishing more generous policies.

12. How should a temporary staffing agency determine tier size? Do they have to count the employees of companies that they contract with?

No. The size of the company where the agency's temporary employees work (i.e. the contracting employer) has no bearing on your tier size.

13. A temporary staffing agency supplies employees to a federal government facility in Seattle. Since these employees work for the federal agency, does that make them exempt from PSST?

No. Temporary employees work for the staffing agency and are not federal employees; they are covered by the ordinance.

14. In 2011, a small business had enough employees to qualify as Tier One for 2012. In 2012, the business cut back and now it has just four FTEs – not enough to qualify as a Tier 1 employer. Does the employer have to carry over the employees' unused PSST hours into 2013? Do the employees have the right to use those hours in 2013?

The employer does **not** have to allow its employees to use those PSST hours in a year when the number of FTEs is four or fewer. But it **does** need to carry over those hours and maintain them on the books, in case the business qualifies as a Tier One employer in the future. If that happens, the employer will need to reinstate those hours for the employees.

D. Accruing paid sick/safe time (PSST)

1. When do employees begin to accrue PSST?

As of September 1, 2012, employees who work in Seattle begin to accrue PSST from the start-date of employment. Accrual does not apply to hours worked before September 1, 2012.

2. How much PSST do employees accrue?

Employees accrue PSST based on their employer's tier size:

- **Tier One and Two:** Employees accrue at least one hour of PSST for every 40 hours worked.
- **Tier Three:** Employees accrue at least one hour of PSST for every 30 hours worked.

3. Do employees accrue paid sick time and paid safe time separately, or is it one amount of time that employees can use either way?

Employees accrue PSST in one amount and can use it for either sick or safe purposes.

4. One of my employees just quit. What do I do with her unused PSST?

Hang on to those records: if your employee returns to work with you within seven months, then she is entitled to pick up where she left off. If she had been eligible to use PSST hours prior to separation, then she will have access to those leftover PSST hours from the previous period of employment. That previous employment also would count toward the employee's eligibility to use PSST.

5. What about seasonal employees?

If an employee is laid off and rehired by the same employer within seven months of separation, then she is entitled to pick up where she left off.

Example #1: During his summers off from school, Aziz works in a restaurant from May through September. Aziz will retain his previously accrued hours of PSST (and will accrue more hours as he continues to work) as long as the period between Aziz's departure and return to work is no longer than seven months.

Example #2: Caprice works full-time and accrues 20 hours of PSST. She leaves her job to pursue a master's degree. Six months later she is rehired by the same company and begins to work on a part-time basis. When Caprice returns to work, all of her previously accrued PSST hours are reinstated and she will accrue more hours as she continues to work.

6. What about employees who are exempt from overtime under state minimum wage laws and/or the Fair Labor Standards Act (FLSA)?

Exempt employees do not accrue PSST for hours worked beyond a 40-hour work week. If an exempt employee's normal work week is less than 40 hours, PSST accrues based on the employee's normal work week. If an exempt employee's normal work week is 40 hours or more, PSST still accrues based on a 40-hour work week.

7. Does universal paid time off (PTO) satisfy the requirements of the ordinance?

Yes, as long as the PTO system meets or exceeds the requirements of the ordinance. In addition, Tier Three employers must permit employees to use up to 108 hours of paid time off within a calendar year and/or carry over up to 108 hours of unused paid time off to the next calendar year.

8. Can I set up separate PSST policies for our non-exempt and our exempt employees? Or do we have to have one policy for all employees, no matter what their status?

Yes, you can set up different PSST policies based on factors such as exempt/ non-exempt, length of tenure, etc. – just as long as **all** policies meet minimum PSST requirements.

9. My drivers sometimes make deliveries inside Seattle; other times they pass through the city without stopping for more than gas or a tire change. Which scenarios require PSST accrual?

Employees who stop in Seattle as a purpose of their work (e.g. to make a pickup or delivery) are covered by the ordinance, and those hours need to be counted and tracked. If an employee passes through Seattle without stopping, or if s/he makes only incidental stops (e.g. for gas, a tire change, etc.) then s/he is not considered to be working in Seattle. Those hours do not need to be counted.

10. A bookkeeper is responsible for compliance with the ordinance. Does he calculate PSST as a stand-alone accrual every pay period, or does PSST continue to build based on hours worked?

PSST accrual continues to build from one pay period to the next. One way to manage accrual is to assign a fractional value of accrued PSST for every hour worked (i.e. Tier 1 and Tier 2 employees will accrue .025 for each hour worked; Tier 3 employees will accrue .033 for each hour worked).

11. An employer frontloads her employees' paid leave at the beginning of the calendar year. Is that allowed under the ordinance?

Yes. Frontloading is allowed, so long as you frontload at least the minimum number of hours that you are required to let your employees use during the calendar year. When you frontload your employees' PSST hours at the beginning of the calendar year, you eliminate the need to track accrual and carry over hours from one pay period to the next.

12. If employers frontload the full amount of PSST at the beginning of the calendar year, do they still need to allow carryover?

No. Employers who frontload PSST at the start of the calendar year do not have to allow carryover of unused hours because employees already have the mandated number of hours for use during the calendar year.

13. An employer uses QuickBooks to do payroll. She is a Tier One employer and wants to comply with the ordinance, but QuickBooks won't let her! It distributes 40 hours of PSST in equal amounts in each paycheck over the course of a year – which does not always match her employees' actual hours worked. What can she do?

Sorry, we are not QuickBooks experts. But you do have another option: frontload the balance of hours at the beginning of the calendar year (for example, a Tier One employer could frontload all 40 hours).

14. How can employees learn about available hours of PSST?

Employers must provide employees with the amount of their available PSST during every pay period. Employers may choose a reasonable system for providing this information, such as stating available PSST on each pay stub, an on-line system, e-mail, memo, etc.

15. Can employers require employees to ask Human Resources, the bookkeeper or a manager for a PSST balance?

Sorry, afraid not. Employers must provide employees with a written record of available PSST during every pay period.

16. An employer informed his employees that they will lose their paid holidays to help the business pay for PSST. Is that allowed?

Yes. Employers are not required to provide paid holidays or vacation time. Holidays and vacation are optional benefits. PSST is the only paid time off that employers must provide to their Seattle employees.

17. Do PSST accrual and carry-over need to be based on the "calendar year" or can employers use other dates, such as anniversary of date-of-hire?

The PSST ordinance specifies that accrual and carry-over be based on the calendar year, which begins on January 1.

E. Using paid sick/safe time (PSST)

1. When can employees start using PSST?

In general, employees can use accrued PSST on the 180th calendar day after their date of hire. However, there is an exception for new Tier One and Tier Two employers. Under this exception, new employers are not covered by the Ordinance until 24 months after the hire date of the first employee. This means that new employers are not required to permit accrual or use of PSST until after 24 months of the hire date of the first employee.

Example #1: Solomon started working for his employer in 2009. The employer hired its first employee in 1999. Solomon is eligible to use PSST immediately upon accrual.

Example #2: Enrique started working for a new Tier One employer on February 18, 2012. The employer hired its first employee on January 10, 2012. Enrique will begin to accrue PSST on January 10, 2014 (24 months after the employer's hire date of its first employee) and can use it immediately.

2. How much PSST can an employee use in a calendar year?

Use of PSST depends on the employer's tier size:

Tier One – Employees can use up to 40 hours of unused PSST hours per calendar year.

Tier Two – Employees can use up to 56 hours of unused PSST hours per calendar year.

Tier Three – Employees can use up to 72 hours of unused PSST hours per calendar year. (Note: employees of Tier 3 employers who offer a Paid Time Off (PTO) plan can use up to 108 hours of unused PSST hours per calendar year.)

3. What happens to unused PSST at the end of the calendar year?

Employers must permit employees to carry over unused PSST to the next calendar year. However, the number of hours depends on the employer's tier size:

Tier One – Employees can carry over up to 40 hours of unused PSST hours.

Tier Two – Employees can carry over up to 56 hours of unused PSST hours.

Tier Three – Employees can carry over up to 72 hours of unused PSST hours.

(Note: employees of Tier Three employers who offer a Paid Time Off (PTO) plan can carry over up to 108 hours of unused PSST hours per calendar year.)

4. Can employers require their employees to use PSST in more than hour-long increments?

No. The ordinance requires employers to permit use of PSST in one-hour increments. Employers can choose to permit use of PSST in less than one hour increments if they wish – but they must allow one-hour increments.

5. Can employers count other forms of paid leave (e.g. vacation) toward minimum requirements for PSST?

Yes. Since this type of policy is not a PTO, the employer must track an employee's use of vacation leave for the purposes of PSST. The employer also must comply with all other requirements of the ordinance, such as notice to employees that vacation can be used for

the purposes of PSST, notification of available vacation leave during each pay period, carryover of unused vacation leave to the following calendar year, etc.

6. Why is there a discrepancy between an employee's accrual of PSST and use of PSST in a calendar year? The numbers don't match up.

The City of Seattle designed the ordinance with clear caps on use and carryover of PSST hours. But there is no cap on employees' accrual of PSST hours. The only limitation on accrual is the number of available hours for work in a calendar year.

Think of "accrual" and "use" as two separate concepts. Accrual of PSST will vary from one employee to another based on hours worked. Some employees may accrue more PSST than they are permitted to use in a calendar year. Employers may choose to cap **use** of PSST according to the ordinance.

Example #1: Marienela works for a Tier One employer. By the end of 2013, she has accrued 50 hours of PSST and has used 40 hours. Her employer must permit carryover of the unused balance of 10 hours to the following calendar. Marienela can use the carried over PSST as soon as the New Year begins. For example, Marienela's son is sick for two days in February 2014. To care for her son during his illness, Marienela can use the 10 PSST hours from 2013 plus the 6 PSST hours that she has accrued in 2014. After using these 16 hours, she has the right to use 24 hours of PSST for the remainder of the year.

7. Can I discontinue my employees' PSST accrual once they reach the maximum amount they can use in a calendar year? Or do the hours keep accruing, even though the employees won't be able to use it?

You must allow your employees to continue accruing PSST hours, even if the total is more than annual use requirements. If your employees have unused hours left over on December 31, they are allowed to carry them over into the following calendar year, up to the amount mandated by the employer's tier size.

8. What are acceptable reasons for using paid sick time?

An employee can use paid sick time for the following reasons:

- An employee's mental or physical illness, injury or health condition; an employee's need for medical diagnosis care or treatment of a mental or physical illness, injury or health condition; or an employee's need for preventive medical care.
- An employee providing care for a family member with an illness, injury or medical appointment, etc.

Note: For paid sick time, "family member" is defined by the Washington Family Care Act as a child, grandparent, parent, parent-in-law, spouse and registered domestic partner. See RCW [49.12.265](#) and [49.12.903](#) for more information.

9. What are acceptable reasons for using paid safe time?

An employee can use paid safe time for the following reasons:

- An employee's place of business has been closed by order of a public official to limit exposure to an infectious agent, biological toxin or hazardous material.

- An employee needs to care for a child whose school or place of care has been closed by order of a public health official to limit exposure to an infectious agent, biological toxin or hazardous material.
- For reasons related to domestic violence, sexual assault or stalking that affect the employee or the employee's family member.

Note: For paid safe time, "family member" is defined as a child, spouse, parent, parent-in-law, grandparent, or person with whom the employee has a dating relationship. See RCW [49.76.020](#) for more information.

10. Can PSST be used to care for a sick adult child over the age of 18?

Employees can use PSST hours to care for adult children in temporarily incapacitating situations. The ordinance describes a child as "under 18" unless the child is older than 18 and is "incapable of self-care because of mental or physical disability." Temporary disabilities are covered if the condition limits one or more activities of daily living. Since this definition comes from the Washington State Family Care Act, the Washington State Department of Labor and Industries is a helpful resource for more information. [Click here for more guidance from Washington State Department of Labor and Industries.](#)

Example #1: An employee's 30 year old child has the flu. The employee can use PSST to care for the adult child.

11. Can parents use PSST for parental leave following the birth of their child?

A mother can use PSST during any period of sickness or disability following the birth of her child. The other parent can use PSST to care for the mother during this period. Parents also can use PSST to care for a child's illness. Parents **cannot** use PSST for "bonding" purposes -- this differs from FMLA, which does permit leave for the purpose of bonding with a newborn or newly adopted child.

For more information, visit [WA labor and industries' link to information about pregnancy and parental leave.](#)

12. I know that a doctor's appointment falls under the ordinance. Does a dentist or eye doctor appointment also count?

Yes. Eyes and teeth both fall under the category of "physical health condition."

13. Under an employer's PTO policy, can employees use all of their accrued time for vacation and not leave any "cushion" for PSST?

Yes. Under an employer's PTO policy, employees can choose to use their paid time off for any reason permitted under the policy -- vacation, PSST, holidays, personal days, etc. Once an employee uses all available paid time off, she does not have a right to additional PSST for that calendar year -- even if she becomes sick. However, depending on the illness and situation, other laws may apply to cover the absence.

14. How does an employer compensate hourly employees who use PSST for hours that would have been overtime?

Employers may compensate employees at their regular rate of pay for use of PSST for overtime hours. Employers are not required to pay overtime rates for use of PSST.

15. If an employer pays overtime to her employees, can she deduct used PSST at the rate of 1.5 hours?

No. PSST hours are deducted in hourly increments, no matter if they were overtime hours.

16. Are employees allowed to donate their unused PSST to a company-wide, paid leave donation plan?

Yes.

17. An employee got sick in the middle of his scheduled vacation. Can he claim some of his PSST hours because he was sick?

No. You cannot claim PSST because you were not scheduled to work on your vacation.

18. When can on-call employees use their accrued PSST?

If an on-call employee is paid for a scheduled shift regardless of whether s/he actually works the shift, the employer must permit use of PSST. If an on-call employee is paid for a scheduled shift only if s/he actually works the shift, the employer may permit use of PSST, but is not required to permit use.

19. How does an employer compensate an employee who uses PSST for a shift of indeterminate length?

An employer may determine payment based on hours worked by a replacement employee in the same shift or similarly-situated employees who worked that same (or similar) shift in the past.

20. Can an employee trade shifts or work additional hours instead of using PSST?

Yes. With mutual employer and employee consent, employees may work additional hours or shifts during the same or next pay period instead of using PSST.

For eating and/or drinking establishments, employers may offer substitute hours/shifts to employees who request PSST. If an employee chooses to work substitute hours/shifts, the employer may deduct PSST in accordance with ordinance requirements.

Example #1: Serena works for an office supply company in the stocking department. When Serena becomes sick with the flu, she may stay home and use PSST for the hours she misses from work. She also may work additional hours and/or swap shifts with another employee to cover the missed hours from work instead of using PSST.

Example #2: Bindu works for a restaurant as a server and has accrued four hours of PSST. When Bindu becomes sick with the flu just before her 6 to 10 pm shift, she may stay home and use PSST for the four hours she misses from work. With mutual consent between Bindu and her employer, she also may stay home and then make-up the missed hours from work in a substitute shift during the same or next pay period. For example, Bindu could work the following Wednesday in a substitute shift from 6 to 10 pm. To pay Bindu for this substitute shift, her employer may deduct four PSST hours from her available leave.

21. What pay does an employee earn during use of PSST?

Employers must pay employees for PSST at the same hourly rate and with the same benefits, (including health care benefits) as during regular work hours.

22. Are employees entitled to tips that would have been earned?

Employees are not entitled to lost tips or commissions during use of PSST.

23. Are cash-outs permitted under the ordinance?

Yes. With the mutual consent of the employer and employee, unused PSST may be cashed out. Some employers may choose to offer cash-out of PSST upon separation of employment; other employers may choose to cash out unused PSST at the end of each calendar year.

Employers are free to offer cash outs, and employees are free to accept them. However, employers may not require employees to cash out PSST because that could prevent use of PSST for its intended purpose or prevent reinstatement of PSST if an employee returns to work within seven months.

24. Is cash-out required when employees leave their job?

No. Employers are not required to cash out unused PSST upon an employee's termination, resignation, retirement or other separation from employment. Cash-out is a discretionary option for employers.

25. Can employees use PSST to assist a roommate who is being stalked?

Yes, adults and people 16 and older who are roommates count as household members under the ordinance.

F. Requesting use of paid sick/safe time (PSST)

1. How does an employee request use of PSST?

The method for requesting PSST depends on an employer's policies. Employees are required to comply with an employer's notice policy for absences and/or leave requests, provided that those policies do not interfere with the purpose of PSST.

- For leave that is foreseeable, a written request should be provided at least 10 days ahead of time (or as early as possible) unless the employer's customary notice policy requires less advance notice.
- For unforeseeable leave, the employee must provide notice as soon as is practicable and must generally comply with an employer's customary notice policies and/or call-in procedures.

2. Must employees specifically ask to use PSST?

Employees are not required to specifically ask for "paid sick and safe time" or reference the ordinance when requesting PSST. Instead, employees simply must state their need for an absence for a reason covered by the ordinance. It can be as simple as "I am sick and need to miss my shift today." Employers must recognize the covered reasons, and can then deduct PSST from the employee's leave bank. If an employee calls in sick, the employer can assume the employee intends to use accrued PSST, unless the employee asks the employer to consider another arrangement.

The bottom line? Employees have a right to use PSST, and employers must have enough information to make it happen. Employers also can ask employees if they want to swap shifts to make up hours instead. Swapped shifts must be mutually agreed upon by the employee and the employer.

3. Can employers ask for details of the reason why an employee is requesting PSST?

No. Employees are not required to disclose details of their situation that would violate the confidentiality provision of the ordinance. Employers may request medical documentation to support the reason for the absence after the employee has used PSST for more than three consecutive work days.

4. An employee schedules a doctor's appointment a week ahead of time, but forgets to let the employer know about it until a day in advance. The employer's policy requires seven days notice for foreseeable absences. Can the employer deny use of PSST because the absence was foreseeable and the employee did not provide adequate notice?

Yes. An employer can require employees to comply with notice policies and procedures if the absence is foreseeable and if notice does not interfere with PSST use. If an employee does not comply with notice policies and there is no evidence of mitigating factors or retaliation by the employer, an employer can deny use of PSST.

5. Does a PTO policy change notice requirements for foreseeable and unforeseeable PSST?

No. Employers with PTO policies can require employees to comply with their notice policies for using PSST if the absence is foreseeable and if giving notice doesn't interfere with the purpose of the absence.

G. Employee documentation for using paid sick/safe time (PSST)

1. Does an employee have to provide documentation for use of PSST?

An employee does not need to provide documentation for use of paid safe time unless s/he is absent for more than three consecutive work days. After three consecutive work days, an employer may require documentation.

- For documentation of the closure of a school or place of care, an employee can provide notice of the closure in whatever format the employee received it.
- For verification of leave taken for domestic violence, sexual assault or stalking, an employee may provide a police report; applicable evidence from the court or the prosecuting attorney; documentation from an advocate, attorney, member of the clergy, medical or other professional; or the employee's written statement.

Note: The verification provision for domestic violence, sexual assault or stalking does not waive confidentiality requirements.

2. Who pays for documenting use of PSST after more than three consecutive work days?

If the employer does not offer health insurance to the employee, then the employer and the employee each pay 50% of the cost of documentation. Expenses are limited to the cost of:

- Services provided by health care professionals.

- Services of health care facilities.
- Testing prescribed by health care professionals.
- Transportation to the location where such services are provided.

If an employee has declined health insurance from an employer, the employee is not entitled to reimbursement for expenses.

3. If an employer observes an employee during a shift and believes that the employee has a contagious illness, can the employer ask questions about the illness?

In this situation, the ordinance does not permit an employer to ask for information about the illness or require use of PSST. However, other laws, (e.g. American with Disabilities Act, Washington Law Against Discrimination, etc) may apply and take precedence over the Ordinance. In such cases, the employer may be able to ask questions about the illness and/or request medical documentation before the employee has used PSST for more than three consecutive days.

4. An employer provides employees with a defined contribution towards the purchase of individual health coverage (i.e. a Health Reimbursement Arrangement or HRA). Does this qualify as “offering health insurance” such that the employer does not need to cover half the cost of documenting a PSST absence of longer than three days?

OLS will decide whether this employer qualified as “offering health insurance” on a case-by-case basis during an investigation of a PSST complaint. As a general rule, if an employer does not provide direct health care coverage, the employer would need to cover a substantial amount of the employee’s health care costs through the HRA in order to qualify as “offering health care coverage” to an employee.

5. How does PSST overlap with Worker's Compensation? My understanding is that Worker's Compensation starts three days after the date of injury and then pays 60% of normal wage. Can PSST fill in the gap from those three days and be used somehow during the rest of the time loss?

As with other laws that permit leave of absence for medical reasons (e.g. FMLA, ADA etc.), there is potential for PSST and Workers Compensation to overlap. It is up to the employer to determine how that happens – as long as the employer permits the employee to use PSST according to basic requirements.

In this situation, it seems reasonable for an employee to use PSST for the first three days of incapacitation and then a combination of PSST and Workers Compensation for the other absences. OLS does not enforce Workers Compensation; for more information visit Washington State Labor and Industries.

6. I have intermittent, approved FMLA for a personal medical condition. Can my employer ask for medical documentation to support my use of PSST?

Yes, the employer can ask if the use of PSST was for a reason related to the approved FMLA.

- If the employee says, “Yes,” then the absence is covered by PSST **and** FMLA. The employer may ask for medical documentation as permitted by FMLA.
- If the employee says, “Yes,” but provides medical documentation that fails to support the approved FMLA condition, then the employer must decide if the absence meets the criteria for PSST.

- If the employee says, “No,” then the absence is just covered by PSST. The employer may ask the employee for medical documentation only if they suspect the employee is abusing the use of PSST (or if the employee is absent for more than three consecutive work days). If the medical documentation shows that the absence was used for sick time, then the absence is covered by PSST.
- If the medical documentation does not show that the absence was used for sick time, then the employer may take reasonable disciplinary action toward the employee.

7. An employee needs to schedule a weeklong PSST absence for surgery. The employer requests a doctor’s note in advance of the procedure. Is that permissible?

Yes. The employee’s planned absence will last longer than three consecutive work days, so the employer can request advance documentation. If the employer does not provide health insurance, then the employer will be responsible for covering 50% of the cost of documenting the absence. That’s 50% of the cost of documentation, by the way – not half the cost of the surgery itself.

H. Employer notice and posting requirements for paid sick/safe time (PSST)

1. What are employers’ notice and posting requirements?

Employers are required to provide employees with notice of (1) the entitlement to PSST, (2) the amount of PSST and the terms of its use, (3) the prohibition against retaliation and (4) the ability to file a complaint with OLS for denial of PSST and/or retaliation.

Employers may comply with the notice requirements of this ordinance by:

- Including a paper or electronic copy of notice in employee handbooks or other written guidance.
- Distributing a notice to each new employee at the time of hire.
- Displaying a poster created by SOCR in a conspicuous and accessible place in the workplace.

Visit [SOCR’s web site](#) for PSST posters (in English, Spanish, Chinese, Vietnamese, Korean, Tagalog and Somali) and other PSST resources.

2. To comply with PSST notice requirements, do employers have to display the SOCR poster or is it acceptable to share the information verbally, send an email, or provide it in an employee manual?

Employers may choose any of these methods to inform employees of PSST, as long as it provides conspicuous and accessible notice of:

- Employees’ entitlement to PSST.
- The amount of PSST and the terms of its use guaranteed under the ordinance.
- Protection from retaliation for employees who request or use PSST.
- Employees’ right to file a complaint for denial or retaliation.

Displaying the SOCR poster is an easy way to comply with the notice requirement, but employers are free to use a variety of methods, including a staff meeting. Written

notification is a good idea in case an employee claims that an employer failed to provide this information.

3. What are PSST notice requirements for out-of-town employers with just a few employees who work occasionally in Seattle?

Employers based outside of Seattle are not required to provide PSST notice to all employees. However, for employees who work in Seattle on an occasional basis, such employers must provide PSST notice reasonably in advance of their first period of work in Seattle.

I. Employer records of paid sick/safe time (PSST)

1. What are employer record-keeping requirements for PSST?

Employers are not required to change their record-keeping policies, as long as those records reasonably indicate:

- Hours worked by employees.
- Accrued PSST.
- PSST used by employees.

Employers must retain these records for two years. Employers also are required to allow OLS access to these records to investigate alleged PSST violations and to monitor compliance with the ordinance if a PSST complaint is filed with OLS.

2. If an employer offers unlimited leave to employees, does the employer still need to comply with PSST record-keeping requirements?

Yes. All covered employers must keep records that reasonably show each employee's hours worked, accrued PSST and used PSST. If an employer has a paid time off (PTO) policy, then the employer is not required to track the reason for the leave (i.e. whether the absence was for vacation, PSST, holiday, etc.).

Such employers can continue to allow unlimited time off and employees never need to actually use their accrued PSST hours. However, employee records must demonstrate compliance with the ordinance.

J. Retaliation

1. What happens if an employer retaliates against an employee for use of PSST?

Retaliation is illegal. Employers are prohibited from taking an adverse action or discriminating against employees who assert their rights to PSST in good faith. These rights include (but are not limited to):

- Using PSST.
- Informing an employer, union or legal counsel about alleged PSST violations.
- Filing a complaint about alleged PSST violations.
- Participating in an investigation of alleged PSST violations.
- Informing other employees of their PSST rights.

2. Can employers discipline employees who abuse PSST?

Yes. Employers can take reasonable actions when there is suspicion that an employee has not used PSST in good faith, such as a clear instance or pattern of abuse (e.g. using PSST for a ski day, repeatedly using PSST on Fridays and Mondays, etc.). Employers also can request documentation for PSST if there is perceived abuse, even if the absence is for less than three consecutive work days. In such situations, it is wise to document the suspicions of abuse in the event that an employee alleges a violation of the ordinance.

3. An employer has an absence control policy that issues an “occurrence point” for each absence without 7 days advance notice. The employer states that employees will continue to accrue points for absences that are “above and beyond” the ordinance – for example, when an employee calls in sick for an eight-hour shift, but only has four PSST hours. Is that allowed?

Yes. Employers are allowed to have absence-control or discipline policies for absences that are not covered by the ordinance – for example, before an employee is eligible to use PSST, for a mix of PSST with other leave, etc.

K. Enforcement of PSST

1. Who enforces the PSST ordinance?

The Office of Labor Standards, a division within the Seattle Office for Civil Rights (SOCR), enforces the PSST ordinance. Enforcement includes:

- Providing employers and employees with technical assistance.
- Filing charges for alleged violation.
- Conducting investigations.
- Facilitating settlements and conciliations.
- Issuing written findings of fact and determinations.

OLS conducts fair and impartial investigations; the office does not provide legal advice or representation to employees or employers.

2. How does an employee file a complaint regarding violations of this ordinance?

To report and/or discuss alleged PSST violations, call OLS/SOCR at 206-684-4500 or fill out an [online Intake Form](#).

3. What are an employees’ options when they suspect their employer is not complying with PSST requirements?

Employees may contact OLS to report and/or discuss concerns about their employer’s PSST compliance. There are a number of ways to address these concerns, including:

- Asking the employer to consult OLS’s PSST web site to learn more about compliance.
- Asking the employer to contact OLS directly (by sending an email, calling the office at 206-684-4500 or requesting a personal meeting with OLS staff) for technical assistance.

4. What is the timeline for filing a PSST charge against an employer?

Complaints must be filed within 180 days of the alleged violation.

5. How does OLS track employer compliance with PSST requirements?

OLS is not tracking overall PSST compliance. OLS responds to concerns about compliance with PSST on a complaint basis and also files company-wide Director's Charges when the Director has reason to believe that a violation is occurring.

6. Can an employee's spouse or friend talk with OLS about PSST violations?

Yes. SOCR can send the employer an advisory letter requesting that they contact us to discuss the issue. The advisory letter does not include the name of the person who originally provided the information. Employees can remain anonymous, unless they eventually choose to file a charge.

7. Can an employee file a lawsuit in a court of law?

No, a right to civil action is limited to a writ of review where the Superior Court acts as an appellate tribunal of the proceedings of the City's Hearing Examiner.

8. Can employees pursue dual methods for alleging potential violations of the ordinance – for example, by filing a complaint with OLS as well as filing a union grievance?

Yes.

9. What gives the City of Seattle the authority to impose this type of regulation?

Authority for Seattle to pass legislation of this nature derives from Article XI, Section 11 of the Washington Constitution. Seattle, like all cities, has the power to "make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws." As a city, Seattle also has statutory authority "[t]o regulate the carrying on within its corporate limits of all occupations which are of such a nature as to affect the public health or the good order of said city, or to disturb the public peace, and which are not prohibited by law, and to provide for the punishment of all persons violating such regulations, and of all persons who knowingly permit the same to be violated in any building or upon any premises owned or controlled by them." RCW 35.22.380(33).

L. Waivers of paid sick/safe time (PSST)

1. Can employees waive their rights to protections under the PSST ordinance?

No, individual employees cannot waive their rights under the ordinance. Employees who are part of a bona fide collective bargaining agreement can waive their rights.

2. A represented employee's collective bargaining agreement (CBA) expires in three months. Under the current CBA, employees do not accrue PSST. Can the employer ignore PSST requirements until the CBA is up for negotiation in three months?

No. The ordinance can only be waived by mutual agreement between the union and the employer. The two parties must enter into a written waiver (in the CBA, or an addendum to the CBA) that explicitly references the ordinance; otherwise the employer is required to comply.

3. Does the CBA have to be re-opened to negotiate a waiver?

No. A PSST waiver can be in a brief addendum or Memorandum of Understanding (MOU) that is attached to the CBA, as long as the CBA permits such documents. A sample MOU is available at www.seattle.gov/psst.