

SEATTLE PAID SICK & SAFE TIME

SMC 14.16 • Is Your Business Getting It Right?



Seattle Works Well

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❑ Paid Sick and Safe Time

- ❑ Promotes equity through equal access to paid leave for illness and personal safety reasons
- ❑ Builds economic security for employees and their families
- ❑ Protects public health by limiting spread of illnesses



UW Audit - EMPLOYERS

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- **Costs & impact = modest and smaller than anticipated**
 - ▣ Initial fears were reduced with implementation
- **Most Employers Know about PSST (83%)**
- **Most Employers Support the Ordinance (70%)**
- **Majority of Employers offer PSST but Gaps Remain**

UW Audit - Employers

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- **Majority of Employers offer PSST but Gaps Remain**
 - ▣ Coverage
 - Most employers cover full-time (96%)
 - Slim majority of employers cover full-time & part-time (62%)
 - Few employers cover temps, seasonal & occasional basis employees (26%)
 - ▣ Adequacy
 - Few large employers offer enough hours to full-time (45%)
 - Few large employers cover FT & PT and offer enough hours (30%)
 - Most erroneously believe they are in compliance

Call SOCR with your Questions

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206-684-4500

Employees & Employers

PSST COVERAGE



PSST Coverage - Employers

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Employers with employees in Seattle

□ Includes

- ▣ Private-sector employers regardless of location
- ▣ City of Seattle

□ Excludes

- ▣ Federal, state or county government employers
- ▣ New Tier 1 and Tier 2 employers (two-year exemption)

PSST Coverage - Employees

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Employees who work in Seattle

❑ Includes

- ❑ Full-time
- ❑ Part-time
- ❑ Temporary
- ❑ Occasional basis employees
(240+ Seattle hours in a calendar year)

❑ Excludes

- ❑ Employees who travel through Seattle
- ❑ Students enrolled in a work study program

PSST Coverage - Occasional Basis Employees

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Occasional basis employees

- ❑ Employees are based outside Seattle and work in the City on an ad-hoc, irregular basis.
- ❑ Coverage begins after working in Seattle for more than 240 hours in a calendar year.
- ❑ e.g. Deliveries & short-term assignments

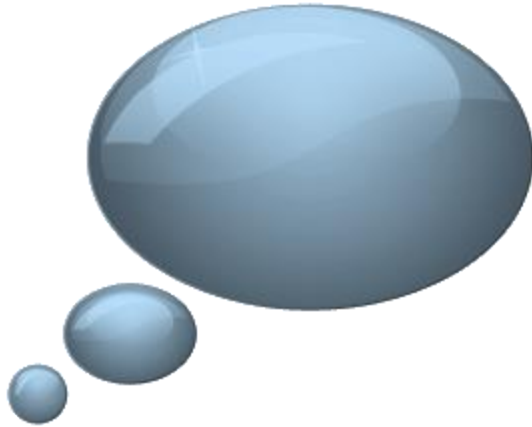


Regular basis employees

- ❑ Employees are expected to work in Seattle for more than 240 hours in a calendar year
- ❑ Coverage begins immediately
- ❑ e.g. Regular shifts and long-term assignments in Seattle

PSST Requirements – Tier Size

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**PSST requirements are based
on Tier size 1 – 2 – 3**

- **Tiers = # of full time equivalent (FTE) employees**
 - All employees regardless of work location
 - Temporary workers (hired directly or by a staffing agency)
 - Average number FTEs paid per calendar week
 - Prior calendar year

PSST BASICS



PSST Basics

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- ☐ **Notice of PSST Rights**
- ☐ **Accrual**
- ☐ **Use**
- ☐ **Carry over**
- ☐ **Notification of available hours**
- ☐ **Record Keeping**
- ☐ **No Retaliation**

Notice of PSST Rights

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□ Notice

- Required for all employees who work in Seattle, regardless of employer tier size or location
- SOCR Poster, Employee Manual, Letter, etc.
- Conspicuous and accessible to employees

□ Penalties

- ▣ \$125 for first violation
- ▣ \$250 for subsequent violations

PSST Accrual, Use & Carry over

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- **Calendar Year**
- **Excludes**
 - ▣ Rolling 12 months
 - ▣ Anniversary date
 - ▣ Fiscal year

PSST Accrual

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- **Start date** – September 1, 2012 or hire date
- **Tier 1 & 2** – 1 hour per 40 hours worked (.025)
- **Tier 3** – 1 hour per 30 hours worked (.033333)
- **Hours worked** – Seattle hours including overtime, but not paid leave (e.g. vacation, PSST)
- **No cap on accrual**
- **Frontloading** – Employer may provide all PSST hours at beginning of calendar year
- **Other paid leave** – Employer may permit use of other paid leave (e.g. vacation, PTO) to meet PSST requirements

PSST Use

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- ❑ **Waiting period** – 180 calendar days from beginning of employment
- ❑ **Hour-long increments**
- ❑ **Employee does not have to find replacement worker**
- ❑ **Cash out is allowed (if mutually agreed upon)**
- ❑ **Tier size**
 - ▣ **Tier 1:** Employees can use 40 hours or less per calendar year
 - ▣ **Tier 2:** Employees can use 56 hours or less per calendar year
 - ▣ **Tier 3:** Employees can use 72 hours or less per calendar year (108 hours for employers with PTO)

PSST Use – Reasons for Absence

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□ SICK TIME

- Employee or family member
 - Child, grandparent, parent, parent-in-law
 - Spouse or domestic partner
- Personal illness or preventative care
- **Pregnancy and Post-Partum illness but not child bonding**

□ SAFE TIME

- Employee or family member
- Reasons related to domestic violence, sexual assault, or stalking
- Employee's workplace or child's school/place of care closed by public official to limit exposure to infectious agent, biological toxin or hazardous materials

PSST Carry over

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- **Unused hours:** Employees carry over unused hours of PSST to the next calendar year
- **Continued Accrual:** Employees continue to accrue PSST even if they carried over unused hours
- **Tier size:**
 - ▣ **Tier 1:** Employees can carry over 40 hours or less.
 - ▣ **Tier 2:** Employees can carry over 56 hours or less.
 - ▣ **Tier 3:** Employees can carry over 72 hours or less (108 hours for employers with PTO)

Seattle PSST Chart



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TIER	EMPLOYER SIZE	ACCRUAL	USE	CARRY OVER
Not Covered	4 or _{fewer} FTEs	No accrual, use or carry over requirement. Notice and anti-retaliation provisions apply		
1	More than 4 to 49 FTEs	1 hour/40 hours worked	40 hours	40 hours
2	More than 49 to 249 FTEs	1 hour/40 hours worked	56 hours	56 hours
3	250+ FTEs	1 hour/30 hours worked	72 hours	72 hours
	250+ FTEs (PTO benefit systems)	1 hour/30 hours worked	108 hours	108 hours

PSST Notification

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- Employer must provide written notification of available PSST hours each time that wages are paid
 - Pay stub
 - Memo
 - Excel Spreadsheet
 - Anonymous bulletin board
 - “Notification upon request” only as supplemental notification

**Best
Practice**

Include YTD hours & note regarding # of protected hours

PSST Record Keeping

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□ Recordkeeping

- ▣ Employers must retain PSST records for two years
- ▣ Hours worked in Seattle
- ▣ Accrued PSST
- ▣ Use of PSST

No Retaliation

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- **Good faith use of PSST cannot result in adverse employment action**
- **Absence Control Policies are not allowed for absences covered by PSST**
- **Exception –clear instance or pattern of abuse:**
 - Repeated absences
 - Absences precede or follow regular days off or follow some other pattern without legitimate reason
 - Obtaining or using paid sick time improperly

PSST DETAILS



PSST Details

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- ❑ **Requesting PSST**
- ❑ **Rate of Pay**
- ❑ **Documentation for PSST**
- ❑ **Suspensions of PSST abuse**
- ❑ **Rate of Pay**
- ❑ **Seasonal employees**
- ❑ **Waiver**

PSST Requests

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- **Employee requests absence for reason covered by ordinance**
- **Foreseeable leave**
 - ▣ Written request at least 10 days in advance of leave
- **Unforeseeable leave**
 - ▣ **Call-in procedures** - Employees must follow call-in procedures unless there are mitigating circumstances (and then employee must provide notice “as soon as practicable”)
 - ▣ **Safe time** - Employee may provide notice by the end of the first day for domestic violence, assault stalking

PSST Rate of Pay

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- ❑ Same hourly wage that employee would have earned during the time that PSST was taken
- ❑ At least minimum wage
- ❑ Excludes lost tips and commissions

PSST Documentation for Absences

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- **Employer may request documentation after employee uses PSST for more than 3 consecutive work days or shifts**

** Exception for clear instance or pattern of abuse*

Documentation for SICK time

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□ Documentation

- Statement from health care professional
- No info regarding nature of the illness
(unless required by other law, e.g. FMLA, ADA)

□ Payment for documentation

- If employee not offered health insurance, employer and employee each pay 50% of cost

Documentation for SAFE time

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- **Business or School Closure**

- Verification of a closure order by public official

- **Domestic violence, sexual assault or stalking**

- Police report or court order
 - Statement from family member, clergy member, medical or other professional that employee or employee's family member is experiencing domestic violence, sexual assault, or stalking

or

- **Employee's written statement**

- No affidavit format or notarization needed

- **Confidential:** no explanation of nature of reason

PSST Seasonal Employees

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□ Seasonal Employees

- Employee has a “break in service” and is rehired within 7 months by same employer
- PSST is reinstated upon re-employment, regardless of whether employee has met 180 day eligibility requirement
- If employee previously cashed-out unused hours, PSST is not reinstated upon re-employment

PSST Waiver

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- **Individual waivers are not permitted**
 - ▣ Individual employees may not accept premium pay in lieu of PSST or otherwise waive their rights to PSST

- **Collective bargaining agreement waivers are permitted**
 - ▣ Waivers in CBAs must be clear and unambiguous with specific reference to the Ordinance. Waivers can be in the CBA or in an addendum (MOA or MOU)

PSST OUTREACH & ENFORCEMENT



Office of Labor Standards

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■ Office of Labor Standards

- Paid Sick and Safe Time
- Job Assistance Ordinance
- Minimum Wage
- Administrative Wage Theft

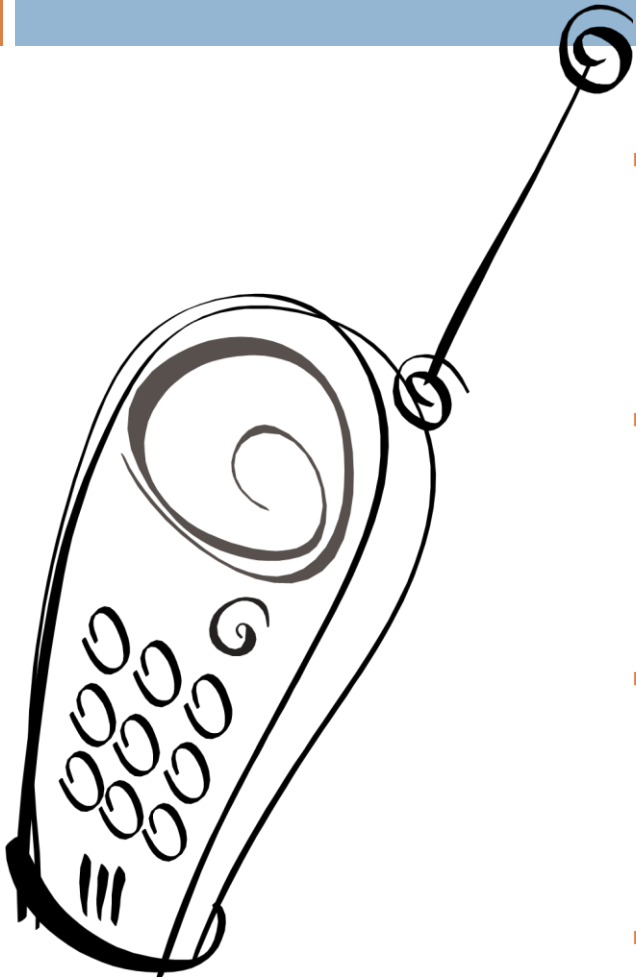
■ Seattle Office for Civil Rights

- Advancing Civil Rights & Removing Barriers to Equity
- Race & Social Justice Initiative
- Civil Rights Enforcement
- Gender Justice



Outreach & Support for Employers

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- **SOCR Front Desk**
206-684-4500
- **Business Liaison**
206-684-4500
- **Email**
ocr_psstquestions@seattle.gov
- **Web site**
www.seattle.gov/civilrights/

QUESTIONS?



Stay in touch

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- ❑ **SOCR Technical Assistance**

- ❑ Business Liaison @ 206-684-4500

- ❑ **Email**

- ❑ ocr_psstquestions@seattle.gov

- ❑ **Web site**

- ❑ www.seattle.gov/civilrights/SickLeave.htm