

Stoel Rives World of Employment

Posted at 6:00 AM on August 15, 2012 by Keelin Curran

City of Seattle's New Paid Sick and Safe Time Law To Take Effect in September 2012

As most Seattle employers know by now and as we [blogged about earlier](#), beginning September 1, 2012, the City of Seattle will require that all but the smallest employers provide paid sick leave to their Seattle employees. Seattle Paid Sick and Safe Time (PSST) mandates that most employers provide paid leave, which increases depending on the size of a company's workforce. Once employees have worked 180 days or more, they must be allowed to use PSST for their own or their family members' illnesses, as well as for certain safety-related reasons.



We are getting many questions from employers about this new leave mandate. This update will provide answers to some common questions.

Remember that you need to notify Seattle employees of their PSST rights by September 1. We are here to assist you in administering this new leave. Below are a few common questions that may come up.

Q: What general notice do we have to provide our employees?

A: *Regularly Work in Seattle.* As of September 1, 2012 or soon thereafter, current Seattle employees (of employers of any size) should receive notice of their PSST rights, and new employees should receive such notice at the time of hire. This can be accomplished in several ways:

1. A poster displayed conspicuously and accessibly in your usual posting place,
2. A notice to employees provided in employee handbooks or similar employee guidance, and/or
3. A notice to employees handed out to each new employee upon hiring.

The notice can be given either electronically or on paper. The City of Seattle's **model notice and poster** (in a number of languages) are [available online](#) (scroll down to "Resources" box in right column).

Occasional Seattle Employees. If your only Seattle employees are those who work in Seattle occasionally and not on a regular schedule, you do not have to provide notice to all employees, provided that notice is given to occasional-basis employees reasonably in advance of their first period of work in Seattle.

Q: What notice do we have to provide our employees regarding their PSST accruals?

A: Each time wages are paid, employees who are accruing PSST (even those who have not worked 180 days yet) must be given information (either on paper or in electronic format) about the amount of PSST they have available.

Q: What categories of employees are covered by the law, and what leave must these employees be given?

A: *Regularly Work in Seattle.* These are employees (regular part-time or full-time, and temporary) who regularly work at least 240 hours per year in Seattle, either at your workplace, by teleworking from a Seattle location or by traveling from another location to regularly work in Seattle. These employees begin to accrue leave on September 1, 2012, and can take it as soon as they have worked 180 days or more (even if those 180 days occurred before September 1, 2012). Leave is only required to be provided during times the employee is working in Seattle.

Occasionally Work in Seattle. These are employees (regular part-time or full-time, and temporary) who occasionally work in Seattle, not on a schedule. These employees begin to accrue leave for every hour they work in Seattle *after* the 240th hour in a calendar year, and can take leave on their 181st day of employment (even if some or all of those 180 days occurred before September 1, 2012). You can begin to count these employees' Seattle hours as of September 1. You can delegate to employees the duty to track "Seattle hours" as long as you notify them of this and provide a reasonable way for them to track hours. Once an occasional employee is covered, he or she is covered for that calendar year and the following calendar year. Leave is only required to be provided during times the employee is working in Seattle.

In order to determine accruals, you must determine your Tier Size. See our [past post](#) for further information on Tier Size and accrual amounts.

Q: How do we figure out what rate of pay employees earn during leave?

A: *Generally.* Employees earn the rate of pay they would have earned during the time PSST is taken—but only for hours they were **scheduled** to work. Employees need not be paid for lost tips or commissions, but must receive at least Washington's current minimum wage (\$9.04 in 2012).

Nonexempts. Employees who would have been paid overtime during their PSST hours need only be paid their regular hourly rate of pay.

Exempts. Employees receive an hourly rate of pay by dividing the annual salary by the number of weeks worked per year, to get the weekly salary, and dividing the weekly salary by the number of hours of the employee's normal work week.

Q: How do we coordinate PSST with other leave, including paid leave such as Short-Term Disability and other Income Replacement Policies?

A: PSST may run concurrently with other leave (such as FMLA) where both apply, and can be provided as a part of paid leave policies (such as vacation, sick and PTO) if those policies meet the eligibility, use, accrual and carryover requirements of PSST. Determining how you will do this and how to amend your policies must be done on a case-by-case basis. The language of your short-term disability leave arrangement, whether provided via insurance, policy or a plan, also requires a case-by-case review.

Please contact [Keelin Curran](#) or your Stoel Rives attorney with your questions regarding coordination of PSST with other leave benefits.

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