

Proposed Paid Sick Leave Ordinance: Summary of Key Provisions

Allowed uses for paid Sick/Safe time

- Illness, injury or scheduled medical appointment for employee or a family member.
- Closure of workplace or child’s school/care facility due to a public health risk.
- With regard to domestic violence, time needed to address legal proceedings, access to alternative shelter or other support services, and medical care for physical and mental injuries. Extends to employee and care of family members (broadly defined).

Amount of time awarded

Sick/Safe days are accrued and carried over from one year to the next, as follows:

Business Size	Accrual Rate	Max. Allowed Per Yr.	Max. Carried Over	When Eligible to Use Days	
Tier 1	< 50 FTE	1 hr of leave per every 50 worked (5 days per yr)	40 hours (5 days)	40 hours (5 days)	After 180 days
Tier 2	50-249 FTE	1 hr of leave per every 35 worked (7 days per yr)	56 hours (7 days)	56 hours (7 days)	After 180 days
Tier 3	250+ FTE	1 hr of leave per every 30 worked (9 days per yr)	72 hours (9 days)	72 hours (9 days)	After 90 days

In addition, businesses with 1,000+ employees that offer leave through a paid-time-off (PTO) program (that combines sick time and vacation into a single pool) must provide 18 total days, of which at least 9 must be available as paid Sick/Safe time.

- In general, an employer who offers a PTO program that meets the standards of the ordinance in terms of accrual and allowed uses would be in compliance.

“Shift swapping”

- Only Tier 1 and Tier 2 businesses will be eligible.
- An employee who requests a Sick/Safe day can be offered a substitute shift. If the employee accepts this shift, the Sick/Safe day will still be deducted from their balance of earned leave. *(For employees such as waiters and waitress this provides incentive to stay home when ill, but also gives them a chance to earn the tip income they desire.)*

- Swaps will be purely voluntary – the employer is not obligated to offer a substitute shift and employees are not obligated to accept a substitute shift.
- Swaps will provide flexibility for both employees and employers, particularly for businesses where the compensation model relies on tips or commissioned sales.
- This is a unique provision not found in other city and state sick leave ordinances.

Notification to employer and documentation for leave taken

- For foreseeable absences, employees shall notify employer at least 10 days in advance, or as early as possible.
- For unforeseeable absences, notice must be provided as “soon as practicable”.
- Employers may require documentation for absences of more than three days. Tier 1 and Tier 2 employers who do not provide health insurance and require documentation due to a medical-related absence, must pay half the costs of any out-of-pocket expense incurred by the employee in obtaining this documentation. Tier 3 employers will have to pay the full cost of securing any requested documentation.

Enforcement - can follow two tracks

1. Seattle Office for Civil Rights (SOCR) – following SOCR’s existing enforcement model

- SOCR will investigate complaints, develop findings and, if a violation has occurred, seek settlement through “conference, conciliation and persuasion”.
- If SOCR determines that there is no violation, the charging party may appeal to the Human Rights Commission, which can either affirm the decision or remand back to SOCR.
- Conditions of the settlements implemented by SOCR could include: elimination of the unlawful practice; back pay; re-hiring; attorney’s fees; and up to \$10,000 for humiliation and emotional suffering. (This is not an exhaustive list.)
- If the conciliation process fails, the matter will be referred to the City Attorney’s office for a hearing before the City Hearing Examiner. The Human Rights Commission may appoint two members to join the Hearing Examiner in hearing such cases.
- If the Hearing Examiner (or the Examiner and the Commissioners) concludes that a violation has occurred, she (they) may order the same forms of relief that SOCR can propose in the conciliation process.

2. Civil Action

- An individual who claims to have been injured by a violation may pursue a civil action in Superior Court.
- Potential damages awarded through this process are the same as through SOCR, except that there are no limitations on injury due to humiliation and emotional suffering.

Relationship to collective bargaining agreements and rights to waive

- The ordinance will apply to all employees, including those represented by a union. However, employees covered by a collective bargaining agreement may expressly waive the Sick/Safe requirements, if they do so in clear and unambiguous terms. As a practical matter, this means that the terms of the ordinance will apply now to represented employees and could only be waived as part of a future contract negotiation.
- Individuals cannot waive the requirements of the ordinance. This implies that individual “premium pay” programs, which offer additional compensation in lieu of benefits, will *not* satisfy the requirements of the ordinance (*unless negotiated through a union*). Employers could still offer premium pay to cover the value of other benefits, but Sick/Safe time could not be waived by an individual in exchange for additional compensation.

Timing of initial implementation and delayed application to new businesses

- For Tier 1 and Tier 2 businesses, the ordinance does not take effect for 1 year. For Tier 3 businesses, there is a 180-day delay. (Provides SOCR opportunity to complete rule-making, and for businesses to conform current policies and practices)
- To minimize the impact on start-up companies, newly-established Tier 1 and Tier 2 businesses will have a two-year exemption from the Sick/Safe time requirements

Other

- The City faces a potential cost of roughly \$200K to meet the terms of the ordinance. This arises from the need to provide Sick/Safe time to temporary employees.
- Ordinance requests SOCR to provide a written assessment of the effectiveness of the ordinance 12 months after the effective date of this ordinance, and to recommend changes to address any identified shortcomings.
- A companion ordinance provides position authority and funding for SOCR to enforce. The on-going cost for the one FTE that has been requested is ~\$85K per year.