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City of Seattle to Require Employers to Provide Paid Sick Leave and Safe Time

On September 12, 2011, the Seattle City Council approved a bill requiring businesses with five or more employees to provide paid sick leave and safe time to their employees performing work in Seattle. An employee who performs work in Seattle on an occasional basis is covered by this bill only if they perform more than 240 hours of work in Seattle in a calendar year. Seattle is now the third city in the country along with Washington D.C. and San Francisco to require paid sick leave. The United States government, the State of Washington and their offices and bodies, and any county or local government other than the City of Seattle are not covered by this new requirement, which goes into effect on September 1, 2012.

Paid Sick Time

Paid sick time must be provided to an employee for an employee's illness, injury or health condition, to accommodate the employee's need for diagnosis, care or treatment of an illness, injury or health condition, or for an employee's preventive medical care. Additionally, employees may use paid sick time to provide care to family members with an illness, injury or health condition, and care for family members who need medical diagnosis, care, treatment or preventive medical care.

Paid Safe Time

Paid safe time must be provided to employees (1) whose place of business or child's school or place of care has been closed to limit exposure to an infectious agent, biological toxin or hazardous material, and (2) for reasons related to domestic violence, sexual assault or stalking, including, but not limited to, participating in any related civil or criminal legal proceeding and obtaining counseling related to an incident involving the employee or an employee's family member.

Amount of Leave

The amount of mandated sick leave and safe time depends on the size of the employer. All employees of an employer, not just those who work in Seattle, are counted to determine the size of the employer.

- **Tier One Employers:** Employees of an employer employing more than 4 but fewer than 50 full-time equivalents on average per calendar week shall accrue at least one hour of paid sick leave or safe time for every 40 hours worked. Tier One Employers need not allow an employee to use a total of paid sick time or safe time exceeding 40 hours in a calendar year.
- **Tier Two Employers:** Employees of an employer employing at least 50 and

fewer than 250 full-time equivalents on average per calendar week shall accrue at least one hour of paid sick leave or safe time for every 40 hours worked. Tier Two Employers need not allow an employee to use a total of paid sick time or safe time exceeding 56 hours in a calendar year.

- **Tier Three Employers:** Employees of an employer employing 250 or more full-time equivalents on average per calendar week shall accrue at least one hour of paid sick leave or safe time for every 30 hours worked. Tier Three Employers need not allow an employee to use a total of paid sick time or safe time exceeding 72 hours in a calendar year.

The accrued amounts can be carried over to the following year. Employers are of course allowed to have more generous paid leave policies in place. Employers with existing paid sick leave or PTO policies are not required to provide additional paid sick and safe time leave provided that the leave may be used for the purposes stated above and accrues at least at the same rates as mandated by the new bill, with one exception being that Tier Three Employers with a paid leave or PTO policy cannot limit use of paid leave within any calendar year to less than 108 hours. There is no requirement to pay out any sick leave or safe time at the employee's separation from employment.

Notice to Employees

Each time wages are paid, employers must provide employees information in writing stating the amount of paid time available for use as sick leave or safe time. A reasonable system must be employed to provide this notification, including, but not limited to, providing this information on a pay stub or developing an online system where employees can access this information.

Employers must also provide notice to employees of their entitlements to paid sick leave and safe time. The Seattle Office for Civil Rights will make available to employers a poster and model notice that will satisfy the employer's notification obligations. Alternatively, employers may include the notice in an employee handbook or other document concerning employee benefits or leave rights.

Retaliation Prohibited

Employers are prohibited to interfere with, restrain or deny the exercise of, or the attempt to exercise, any right protected by the sick leave and safe time bill. An employee alleging a violation of the sick leave and safe time requirements may file a complaint with the Seattle Office for Civil Rights within 180 days after the occurrence of the alleged violation.

New Small Businesses Exempt

Tier One and Tier Two Employers are exempt from the requirements of this bill until 24 months after the hire date of their first employee.

Waiver in Collective Bargaining

The sick leave and safe time requirements will not apply to employees covered by a bona fide collective bargaining agreement to the extent that such requirements are expressly waived in the collective bargaining agreement in clear and unambiguous terms.

Waiting Period

Employees are entitled to use their accrued paid sick leave or safe time on the 180th day after the commencement of their employment.

This update is not intended to be an exhaustive analysis of the City Council's bill. The full text of the City Council's bill can be found here.

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