

## Sick Leave in Seattle

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November 2, 2011

The Seattle City Council recently passed an ordinance ([Council Bill No. 117216](#)) requiring most employers operating in Seattle to provide their employees with paid sick leave and paid “safe leave” (related to domestic violence, sexual assault, stalking, and other safety concerns) by September 1, 2012.

While the ordinance is incredibly long and detailed, this Cyber-Graham summarizes the key provisions of Seattle’s new sick and safe leave law.

### Employers and Employees Covered by the Ordinance

The ordinance covers employees who work at least 240 hours in Seattle per calendar year, and employers with five or more employees. Employers are divided into tiers based on their size, and all employees count for purposes of determining an employer’s tier (regardless of whether they perform any work in Seattle).

- Tier 1 employers have between five and 49 employees, and must provide at least five days of paid sick or safe leave per year.
- Tier 2 employers have between 50 and 249 employees, and must provide at least seven days of paid sick or safe leave per year.
- Tier 3 employers have at least 250 employees and must provide at least nine days of paid sick or safe leave per year.

### Accrual of Paid Sick and Safe Leave

Employees currently working in Seattle will begin to accrue paid sick and safe leave upon the effective date of the ordinance. Employees hired after the effective date will begin to accrue paid sick and safe time upon the commencement of their employment, but will not be permitted to use such leave until their 180<sup>th</sup> day of work.

- Tier 1 employers are permitted to cap paid sick and safe leave at 40 hours per calendar year.

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- Tier 2 employers are permitted to cap paid sick and safe leave at 56 hours per calendar year.
- Tier 3 employers are permitted to cap paid sick and safe leave at 72 hours per calendar year.

While employees must be permitted to carry over some accrued but unused paid sick and safe leave from year-to-year, the amount may be capped at 40 hours for Tier 1 employees, 56 hours for Tier 2 employees, and 72 hours for Tier 3 employees. Employers with existing universal paid time off (“PTO”) programs, that combine sick and vacation time, need not provide Seattle employees with additional paid sick and safe leave, so long as it can be used for the same purposes and accrues and carries over at the rates provided in the ordinance.

### **Use of Paid Sick or Safe Leave**

Paid sick leave may be used for absences resulting from the employee’s own health needs, or to care for the health condition or medical needs of an eligible family member. For purposes of sick leave, an eligible “family member” is defined to include children, grandparents, parents, parents-in-law, spouses, and registered domestic partners.

Paid safe leave may be used for the following reasons:

- “When the 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.”
- “To care for a child whose school or place of care has been closed by order of a public official for such reason.”
- In “situations of domestic violence, sexual assault or stalking affecting the employee or a family member.”

When possible, requests for paid sick or safe leave must be made at least ten days in advance of the absence (unless the employer’s normal policy requires less notice), or as soon as possible. However, when the need for leave is unforeseeable, “the employee must provide notice as soon as is practicable and must generally comply with an employer’s reasonable normal notification policies and/or call-in procedures, provided that such requirements do not interfere with the purposes for which the leave is needed.”

### **Record Keeping Requirements**

Employers must provide a record of the amount of paid sick or safe leave each employee has available on each Seattle employee’s pay stub. Employers must also retain records of the hours worked and the amount of paid sick or safe leave used by each eligible employee. These records must be kept for a period of two years in a file separate from personnel files.

While the ordinance does not take effect until September 1, 2012, businesses with employees working in Seattle should begin to consider how they will be affected by this new law. Employment counsel should be consulted to ensure proper compliance.

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