

## **FAQs on Washington's New Paid Sick and Safe Time Requirements Effective Now**

The state of Washington's new paid sick and safe time (PSST) requirements became effective January 1, 2018. They apply to all employees covered by Washington's Minimum Wage Act. Employees who meet the "white collar" exemptions (executive, administrative, professional and outside sales employees) are not covered. But virtually all other employees are.

There is no minimum employee headcount threshold; even an employer with only one employee working in the state must allow that employee to accrue and use PSST. All nonexempt employees are covered, even temporary and casual employees. There is no waiting period for the required accrual; covered employees begin accruing on their first day of work in Washington on and after January 1, 2018.

### **Written Notices Required**

Employers must provide a notice to each current employee by March 1, 2018, and to each employee hired after January 1, 2018, on or before the first day of work. The notice must contain the following information:

- The employee's entitlement to PSST,
- The rate at which PSST will accrue,
- The authorized purposes for which PSST may be used, and
- That retaliation for use of PSST (and the employee's exercise of other rights under the employment laws) is prohibited.

The notice may be provided in written or electronic form. The same information must be made readily available to all employees.

As many employers already know, the City of Seattle has mandated PSST since 2012. The Seattle ordinance was recently amended to adopt the more employee-beneficial provisions of the Washington law, but it still contains requirements that exceed the state's.

To be sure you are in compliance with these new requirements, here are some answers to some frequently asked questions to guide you:

<b>Question</b>	<b>State of Washington</b>	<b>Seattle</b>
Rate of accrual?	1 hour for every 40 hours worked.	Same as the state for smaller employers, but for large employers (250 full-time equivalent employees and over) the accrual is 1 hour for every 30 hours worked.

Question	State of Washington	Seattle
Maximum annual accrual that must be permitted?	No limit, but carry over of accrued amount from one year to the next may be capped.	Same as the state, but the carryover cap limit depends on the size of the employer and whether the employer uses a PTO plan to cover the PSST requirements.
Poster or employee handout required?	<p>Yes. Employer must notify employees (in writing or electronically) of their entitlement to PSST, the rate of accrual, the purposes for which it may be used, and that retaliation for use is prohibited. This notice must be given to current employees by 3/1/18 and to all new employees no later than the start of their employment.</p> <p>In addition, a written policy is required if (1) the employer requires advance notice of an absence from work for the use of PSST; or (2) the employer requires verification for absences that exceed 3 days; or (3) the employer permits employees to donate accrued leave to other employees. This policy must be adopted and employees informed about it before the employer may implement any of these.</p>	Yes. Both a written policy and an official poster are required.
Paystub or other accrued balance notification required?	<p>Yes, at least monthly; best practice is to show on current paystub (a requirement in Seattle).</p> <p>The notification must include (1) the amount of PSST accrued since the last notification; (2) the amount of PSST used since the last notification; and (3) the amount of PSST currently available for use.</p>	<p>Yes, each time wages are paid.</p> <p>Details are the same as the state.</p>
Accrual start date?	January 1, 2018.	September 1, 2012.
Waiting time before employee has the right to use?	Yes. 89 days after start of employment. Note—not 90 days after 1/1/18.	Same as the state.
May employees use PSST in smaller than full day increments?	Yes, in the smallest increment the employer uses for time keeping and payroll—but no larger than one hour.	Same as the state.
Paid sick leave bank maximum?	No.	No.
Carryover required?	Yes.	Yes.

Question	State of Washington	Seattle
Limit permitted on amount that can be carried over?	Yes. 40 hours.	Yes. Amount ranges from 40 to 108 hours depending on the total number of employees employed by the employer (not just those in Seattle), and whether the employer uses a PTO plan to satisfy the PSST requirements.
What "year" can be used?	Up to the employer; best practice is to use the same "year" that is used for other benefit purposes (e.g., employee anniversary, calendar, fiscal, etc.). Use of anniversary years would avoid employees using their accrued leave in excess of the carryover cap all at the same time.	Same as the state.
Payout on termination of employment?	Not required.	Not required.
Are exempt employees covered?	No, if they are exempt "white collar" workers: executive, administrative or professional employees or outside salespersons.	Yes; all employees are covered.
Collective bargaining exemption or delay?	No.	Seattle permits a collective bargaining agreement waiver (through 12/31/18) for the city requirements that exceed the state requirements.
Requirement to restore accrued amount on rehire?	Yes, if rehired within 12 months.	Same as the state.
PTO plan instead?	Okay if it is at least as generous (including the required carryovers) and can be used for the required purposes.	Same as the state.

## Question

## State of Washington

## Seattle

PSST may be used in four circumstances:

- The employee's own medical needs
- To care for a "family" member—defined broadly to include grandparents, grandchildren and siblings
- When the workplace or the employee's child's school or day care has been closed by order of a public official for a health-related issue
- For leave under the state's domestic violence leave act.

Same as the state.

Other  
comments/issues?

Employer cannot require verification of the reason for use of the leave unless the employee has been absent more than 3 days.

Use of leave may not be counted as an occurrence under a "no-fault" attendance program.

"Front-loading" at the beginning of the year is permissible if it meets or exceeds the requirements for accrual, use and carryover.

### Additional Municipal Requirements

Note that Seattle's requirements apply to employees based outside of Seattle if they work at least 240 hours in a calendar year in the city.

In addition to the City of Seattle, other Washington cities have their own PSST requirements that in some cases are more demanding than the Washington state law. Currently, these include Tacoma and SeaTac. Tacoma's ordinance is largely the same as the state, but it applies to all employees and permits employees to use PSST for bereavement purposes. SeaTac's PSST ordinance applies only to certain hospitality and transportation employers.

Employers who have employees working in either of those cities should be sure to comply with those requirements as well.

Please note our [disclaimer](#) that this update provides general information only, not a comprehensive treatment of the details of these laws. It does not constitute legal advice for any specific situation. For further questions about how the new laws may affect you and your company, contact experienced counsel.

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