TAKING LEAVE: PAID SICK AND SAFE LEAVE THROUGHOUT WASHINGTON STATE

RICHARD LENTINI & HANA KERN

INITIATIVE 1433

• Increases the minimum wage over the next several years

• Ensures tips are given to the appropriate staff

• Protects employees from retaliation

• Requires employers to provide paid sick/safe leave to employees
ACCRUAL

- One hour of paid leave for every 40 hours worked
- No limit

USAGE

- Paid to employees at their normal hourly compensation
- Employees may use leave on the 90th calendar day after the start of their employment
- Unused paid leave of 40 hours or less must be carried over to the following year
ELIGIBILITY

• All employees are eligible for the new benefit

• Includes full time, part-time and temporary workers

SICK LEAVE

• Illness, injury or health condition

• Medical diagnosis, care or treatment

• Preventative care

• When their place of business has been closed by order of a public official for health reasons
SAFE LEAVE QUALIFYING PURPOSES

For absences that qualify for leave under the state’s Domestic Violence Leave Act

HOW SAFE LEAVE MAY BE USED

For reasons relating to domestic violence, sexual assault or stalking:

- To seek legal or law enforcement assistance or remedies
- To seek treatment by a healthcare provider
- For other healthcare services
- For mental health counseling
- For safety planning, relocation, or other actions to increase the safety of the employee or employee’s family members from future domestic violence, sexual assault, or stalking
NOTICE, CONFIDENTIALITY AND VERIFICATION

• Employer may require employee to give reasonable notice of absence, so long as it does not interfere with lawful use of leave.

• Employer may require medical verification, within a reasonable time period, for absences exceeding three days.

• Employers and their representatives must keep all information concerning the leave confidential.

EMPLOYERS’ DUTIES

• Must maintain health insurance coverage.

• May not require employees using paid sick leave to find a replacement worker.

• Employer must provide regular notice of employee’s accrued leave.

• Employee rehired within 12 months entitled to reinstatement of accrued leave.
DISCRIMINATION AND RETALIATION

• Employer may not discharge, demote, discipline, harass employees who request or take leave

• Employer may not discriminate or retaliate against employee for requests for or use of leave

• Employer may not adopt policies that count covered absences for disciplinary purposes

MISCELLANEOUS PROVISIONS

• Accrued leave need not be paid out upon termination

• Employer can front-load leave
EMPLOYERS CAN BE MORE GENEROUS

For example, an employer may allow...

• Use for additional reasons

• More generous carryover

• Greater rate of accrual

• Payout upon termination

PTO

Employers may adopt a PTO (paid time off) policy that combines vacation and paid sick/safe leave and complies with this law.
COMPARISON OF WASHINGTON AND SEATTLE SICK AND SAFE TIME LAWS

<table>
<thead>
<tr>
<th></th>
<th>Washington</th>
<th>Seattle</th>
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<tbody>
<tr>
<td>Accrual</td>
<td>1 hr/40 worked</td>
<td>1 hr/30 worked for employers with 250 or more FTEs</td>
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<tr>
<td></td>
<td>1 hr/30 worked for employers with 250 or more FTEs</td>
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<tr>
<td>Reinstatement of PSST leave if employee is rehired</td>
<td>Within 12 months</td>
<td>Within 7 months</td>
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<tr>
<td>Use</td>
<td>After 90 days</td>
<td>After 180 days</td>
</tr>
<tr>
<td>Applies to</td>
<td>All employers</td>
<td>Private employers with more than 4 FTEs and City of Seattle</td>
</tr>
<tr>
<td>Eligibility</td>
<td>All employees (Full, part time, seasonal)</td>
<td>All employees (Full, part time, temporary; occasional employees: after 240 hours)</td>
</tr>
<tr>
<td>Effective Date</td>
<td>September 1, 2012</td>
<td>January 1, 2018</td>
</tr>
<tr>
<td>Carryover</td>
<td>40 hours/calendar year</td>
<td>40 hours/year for employers with under 50 FTEs</td>
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<td></td>
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<td>56 hours/year for employers with 50-249 FTEs</td>
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<td></td>
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<td>72 hours/year employers with 250 or more FTEs</td>
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<tr>
<td>Frontloading permitted?</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Compliance by a PTO policy permitted?</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
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PENDING L&I RULEMAKING

- Notification procedures
- Recordkeeping and reporting requirements
- Processes to protect employees from retaliation
- Enforcement
- https://lni.us.engagementhq.com/
Thank You!

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