



Legislation Details (With Text)

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Title: AN ORDINANCE relating to employment in Seattle; amending Sections 14.16.010, 14.16.015, 14.16.020, 14.16.025, 14.16.030, 14.16.040, 14.16.045, 14.16.050, 14.16.055, 14.16.120, 14.22.010, and 14.22.020 of the Seattle Municipal Code (SMC) to strengthen and clarify labor standards requirements for paid sick and paid safe time and secure scheduling; and amending the name of Chapter 14.22 of the SMC to make a technical correction.

Sponsors: Lisa Herbold

Indexes:

Attachments: 1. Proposed Amendments 1 and 2, 2. Summary and Fiscal Note, 3. Summary Att 1 – Step by Step Chart, 4. Summary Att 2 - Initiative 1433, 5. Summary Att 3 - Labor & Industries – Final Rules for Initiative 1433, 6. Summary of CB 119144 and CB 119145, 7. Signed Ord_125499, 8. Affidavit of Publication

Date	Ver.	Action By	Action	Result
12/15/2017	2	City Clerk	attested by City Clerk	
12/15/2017	2	Mayor	returned	
12/15/2017	2	Mayor	Signed	
12/15/2017	2	City Clerk	submitted for Mayor's signature	
12/11/2017	1	City Council	passed as amended	Pass
11/28/2017	1	Civil Rights, Utilities, Economic Development, and Arts Committee	pass	Pass
11/27/2017	1	City Council	referred	
11/16/2017	1	Council President's Office	sent for review	
11/14/2017	1	City Clerk	sent for review	
11/14/2017	1	Mayor	Mayor's leg transmitted to Council	

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to employment in Seattle; amending Sections 14.16.010, 14.16.015, 14.16.020, 14.16.025, 14.16.030, 14.16.040, 14.16.045, 14.16.050, 14.16.055, 14.16.120, 14.22.010, and 14.22.020 of the Seattle Municipal Code (SMC) to strengthen and clarify labor standards requirements for paid sick and paid safe time and secure scheduling; and amending the name of Chapter 14.22 of the SMC to make a technical correction.

WHEREAS, the people of Washington passed Initiative Measure No. 1433, amending chapter 49.46 RCW to require employers to provide employees with paid sick leave to care for the health of themselves and their families as of January 1, 2018; and

WHEREAS, Initiative 1433 applies to all employers in Washington and provides that employees accrue at least one hour of paid sick leave for every 40 hours worked; and

WHEREAS, employees are authorized to use paid sick leave for: 1) their own medical care; 2) to provide care for a family member; 3) when their place of business or child's school or place of care has been closed by order of a public official due to a health reason; or 4) when their absence qualifies for domestic violence leave under chapter 49.76 RCW; and

WHEREAS, an employee may begin to use accrued paid sick leave beginning on the employee's ninetieth day of employment; and

WHEREAS, an employer may request reasonable notice for an absence from work, and may require verification for absences longer than three days, but may not require an employee to find a replacement for the time the employee will be absent; and

WHEREAS, employees must be paid their normal hourly compensation or the minimum wage, whichever is greater, and must be allowed to carry over up to 40 hours of unused paid sick leave to the following year; and

WHEREAS, an employer is not required to provide financial or other reimbursement for accrued or unused paid sick time upon an employee's separation from employment; however, if an employee is rehired within 12 months of separation, previously accrued sick leave shall be reinstated and the previous period of employment shall be counted for purposes of determining an employee's eligibility to use paid sick leave; and

WHEREAS, an employer may not adopt or enforce any policy that counts the use of paid sick leave time as an absence that may lead to or result in discipline against the employee; and

WHEREAS, an employer may not discriminate or retaliate against an employee for exercising the right to use of paid sick leave; and

WHEREAS, an employer is not prevented from providing more generous paid sick leave policies or permitting use of paid sick leave for additional purposes; and

WHEREAS, The City of Seattle (City) enacted Chapter 14.16 of the Seattle Municipal Code, requiring paid sick and safe time for employees working in Seattle, and Chapter 14.16 should reflect the more generous workplace protections of the statewide requirements in Initiative Measure No. 1433; and

WHEREAS, the City has enacted Chapter 14.22 of the Seattle Municipal Code, requiring secure scheduling for employees working in Seattle, and Chapter 14.22 would benefit from clarification on employer coverage; and

WHEREAS, the City is a leader on wage, labor, and workforce practices that enhance equity, and liberally construing the protections afforded in Chapters 14.16 and 14.22 of the Seattle Municipal Code in favor of the employee shall accomplish the purposes of Seattle's labor standards ordinances; NOW,

THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 14.16.010 of the Seattle Municipal Code, last amended by Ordinance 125203, is amended as follows:

14.16.010 Definitions

For purposes of this Chapter 14.16:

* * *

~~(("Benefit year" means any fixed, consecutive 12-month period of time that is normally used by an employer for calculating wages and benefits, including: January 1 through December 31; a tax year, fiscal year, or contract year; or the year running from an employee's one-year anniversary date of employment. An employer must provide written notice of the employer's choice of benefit year in the employer's policy and~~

~~procedure for meeting the paid sick and paid safe time requirements of this Chapter 14.16, pursuant to subsection 14.16.045.C. If an employer transitions from one type of benefit year to another, the employer must ensure that the transition process maintains the accrual, use and carry-over of paid sick and paid safe time hours that are required by this Chapter 14.16.))~~

* * *

~~("Eating and/or drinking establishment" means a place where food and/or beverages are prepared and sold at retail for immediate consumption either on or off premise, but excludes food and beverage service sites, such as cafeterias, that are accessory to other activities and primarily serve students, patients, and/or on-site employees.))~~

"Employ" means to suffer or permit to work.

"Employee" means any individual employed by an employer, including but not limited to full-time employees, part-time employees, and temporary workers. An alleged employer bears the burden of proof that the individual is, as a matter of economic reality, in business for oneself (i.e. independent contractor) rather than dependent upon the alleged employer.

~~((1. An employer bears the burden of proof that the individual is in business for oneself rather than dependent upon the alleged employer.~~

~~2. For purposes of this Chapter 14.16, "employee" does not include an individual performing services under a work study agreement.))~~

* * *

~~("Employment agency" or "staffing agency" means any person undertaking with or without compensation to procure opportunities to work or to procure, recruit, refer, or place individuals with an employer or in employment.))~~

"Frontloading" means providing an employee with paid sick and paid safe time before it has accrued at the rate required by Section 14.16.025.

* * *

~~((“Health care professional” means any person authorized by the City, any state government, and/or the federal government to diagnose and treat physical or mental health conditions, including a doctor, nurse, emergency medical care provider, and/or a public health clinic worker, so long as that person is performing within the scope of their practice as defined by the relevant law.))~~

“Overtime eligible” means employees who are covered by the overtime provisions of the federal Fair Labor Standards Act, 29 U.S.C. § 201 et seq., and the Washington Minimum Wage Act, chapter 49.46 RCW.

“Overtime exempt” means employees who are exempt from the overtime provisions of the federal Fair Labor Standards Act, 29 U.S.C. § 201 et seq., and the Washington Minimum Wage Act, chapter 49.46 RCW.

~~“Paid sick time” ((and/or “paid sick days”)) means accrued hours of paid leave provided by an employer for use by an employee for an absence from work for any of the reasons ((specified)) authorized in subsection 14.16.030.A.1 ((of this Chapter 14.16)), for which time an employee shall be compensated at the ((same hourly rate)) employee’s normal hourly compensation and with the same benefits, including health care benefits, as the employee would have earned during the time the paid leave is taken. ((Employees are not entitled to compensation for lost tips or commissions and compensation)) Compensation shall only be required for hours that an employee is scheduled to have worked. ((1-)) For purposes of determining eligibility for “paid sick time,” “family member” means ((, as defined in the Washington Family Care Act, RCW 49.12.265 and 49.12.903, as follows:)) a child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling.~~

a. “Child” means a biological child, adopted child, ((or)) foster child, ((a)) stepchild, ((a legal ward, or a child of a person standing in loco parentis who is: (a) Under 18 years of age; or (b) 18 years of age or older and incapable of self-care because of a mental or physical disability)) or a child to whom an employee stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status.

b. ((“Grandparent” means a parent of a parent of an employee.

~~e.) "Parent" means a biological parent, ((~~or~~)) adoptive parent, ((~~of an employee or an individual who stood in loco parentis to an employee when the employee was a child.~~)) de facto parent, foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.~~

~~((d. "Parent-in-law" means a parent of the spouse of an employee.~~

~~e. "Spouse" means husband, wife, or domestic partner. For purposes of this Chapter 14.16, the terms spouse, marriage, marital, husband, wife, and family shall be interpreted as applying equally to city or state registered domestic partnerships or individuals in city or state registered domestic partnerships as well as to marital relationships and married persons to the extent that such interpretation does not conflict with federal law. Where necessary to implement this Chapter 14.16, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral and applicable to individuals in city or state registered domestic partnerships.))~~

"Paid safe time" means accrued hours of paid leave provided by an employer for use by an employee for an absence from work for any of the reasons specified in subsection 14.16.030.A.2, for which time an employee shall be compensated at the ~~((same hourly rate))~~ employee's normal hourly compensation and with the same benefits, including health care benefits, as the employee would have earned during the time the paid leave is taken. ~~((1-))~~ For purposes of determining eligibility for "paid safe time" for absences that qualify for leave under subsection 14.16.030.A.2.b, "child" means a biological child, adopted child, foster child, stepchild, or a child to whom an employee stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status. For purposes of determining eligibility for "paid safe time" for absences that qualify for leave under subsection 14.16.030.A.2.c ((:))

~~((a.))~~ 1. "Family member" means, as defined in RCW 49.76.020, any individual whose relationship to the employee can be classified as a child, spouse, parent, parent-in-law, grandparent, or person with whom the employee has a dating relationship.

~~2. ((or household members" shall))~~ "Household members" means, as defined in RCW 49.76.020 and RCW 26.50.010, spouses, domestic partners, former spouses, former domestic partners, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons 16 years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons 16 years of age or older with whom a person 16 years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

~~((b.))~~ 3. "Domestic violence" means~~((:))~~

~~((1))~~ a. Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members;

~~((2))~~ b. Sexual assault of one family or household member by another; or

~~((3))~~ c. Stalking~~((, as defined in subsection 14.16.010.P.1.c.))~~ of one family or household member by another family or household member.

~~((e.))~~ 4. "Stalking" means stalking as defined ~~((as))~~ in RCW 49.76.020. ~~((RCW 9A.46.110.))~~

~~((d.))~~ 5. "Dating relationship" means~~((:))~~ a social relationship of a romantic nature, as defined in RCW 49.76.020. ~~((, a social relationship of a romantic nature.))~~

~~((e.))~~ 6. "Sexual assault" means sexual assault as defined in RCW 49.76.020.

"Rate of inflation" means 100 percent of the annual average growth rate of the bi-monthly Seattle-Tacoma-Bremerton Area Consumer Price Index for Urban Wage Earners and Clerical Workers, termed CPI-W, for the 12-month period ending in August, provided that the percentage increase shall not be less than zero.

* * *

"Tier 1," "Tier 2," and "Tier 3" employers are defined as follows:

1. "Tier 1 employer" means an employer that employs ~~((more than four and))~~ at least one

employee and fewer than 50 full-time equivalents, regardless of where those employees are employed, on average per calendar week.

2. "Tier 2 employer" means an employer that employs at least 50 and fewer than 250 full-time equivalents, regardless of where those employees are employed, on average per calendar week.

3. "Tier 3 employer" means an employer that employs 250 or more full-time equivalents, regardless of where those employees are employed, on average per calendar week.

"Wage" means compensation due to an employee by reason of employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by rules of the Director.

"Written" or "writing" means a printed or printable communication in physical or electronic format, including but not limited to a communication that is transmitted through email, text message, or a computer system, or that is otherwise sent and maintained electronically.

"Year" means calendar year, fiscal year, benefit year, employment year, or any other fixed consecutive 12 month period established by the employer or collective bargaining agreement, and used in the ordinary course of the employer's business for the purpose of calculating wages and benefits. Unless otherwise established by the employer in the written policy and procedure required by subsection 14.16.045.C, "year" is defined as calendar year. If the employer transitions from one type of year to another for the purpose of providing paid sick and paid safe time benefits, the employer must ensure that the transition process maintains the accrual, use, carry-over, and other requirements of this Chapter 14.16.

Section 2. Section 14.16.015 of the Seattle Municipal Code, enacted by Ordinance 124960, is amended as follows:

14.16.015 Employment in Seattle

A. Subject to subsection 14.16.015.B, an employee is covered by this Chapter 14.16 if the employee performs work within the geographic boundaries of the City.

B. An employee who is typically based outside of the City and performs work in the City on an occasional basis is covered by this Chapter 14.16 (~~((only if the employee performs more than 240 hours of work in the City within a benefit year.))~~) pursuant to rules issued by the Director.

1. Once an employee who works in the City on an occasional basis (~~((performs more than 240 hours of work in the City within a benefit year.))~~) is covered by this Chapter 14.16, all previous hours worked in the City during that (~~(benefit)~~) year count toward the accrual of paid sick and paid safe time and the employee shall remain covered by this Chapter 14.16 for the duration of employment with the employer, (~~((in all future benefit years.))~~) provided, however, that separations in employment shall be governed by subsection 14.16.025.L.

2. Time spent in the City solely for the purpose of travelling through the City from a point of origin outside the City to a destination outside the City with no employment-related or commercial stops in the City except for refueling or the employee's personal meals or errands, is not covered by this Chapter 14.16.

Section 3. Subsection 14.16.020.B of the Seattle Municipal Code, which section was last amended by Ordinance 124960, is amended as follows:

14.16.020 Employer tier determination

* * *

B. The employment of at least one employee establishes coverage by this Chapter 14.16. The determination of employer tier for the current calendar year (~~((will be))~~) is calculated based upon the average number per calendar week of full-time equivalents who worked for compensation during the preceding calendar year for any and all weeks during which at least one employee worked for compensation. For employers that did not have any employees during the previous calendar year, the employer tier will be calculated based upon the average number per calendar week of full-time equivalents who worked for compensation during the first 90 calendar days of the current year in which the employer engaged in business.

* * *

Section 4. Section 14.16.025 of the Seattle Municipal Code, enacted by Ordinance 124960, is amended as follows:

14.16.025 Accrual of paid sick and paid safe time

A. All employees of Tier 1, Tier 2, and Tier 3 employers have the right to paid sick time and paid safe time as provided in this Section 14.16.025.

B. Employees shall accrue paid ~~((time,))~~ leave, to be used as ~~((either paid sick or paid safe time,))~~ paid sick and paid safe time, as follows:

1. Employees of a Tier 1 or Tier 2 employer shall accrue at least one hour of paid sick and paid safe time for every 40 hours worked.

2. Employees of a Tier 3 employer shall accrue at least one hour of paid sick and paid safe time for every 30 hours worked.

C. ~~((No Tier 1 employer shall be required to allow an employee to use a combined total of paid sick time and paid safe time exceeding 40 hours in a benefit year. No Tier 2 employer shall be required to allow an employee to use a combined total of paid sick time and paid safe time exceeding 56 hours in a benefit year. No Tier 3 employer shall be required to allow an employee to use a combined total of paid sick time and paid safe time exceeding 72 hours in a benefit year.))~~ An employer may provide paid sick and paid safe time in advance of accrual provided that such frontloading meets or exceeds the requirements of this Chapter 14.16 for accrual, use, and carry over of paid sick and paid safe time.

D. ~~((In the case of employees who are exempt from overtime payment under section 213(a)(1) of the Fair Labor Standards Act of 1938, approved June 25, 1938 (52 Stat. 1060; 29 U.S.C. § 201 et seq.) and RCW 49.46.130(2) (hereinafter referred to as "overtime exempt" employees), no))~~ An employer shall not be required to ((accrue leave for such)) credit paid sick and paid safe time for overtime exempt employees for hours worked beyond a 40-hour work week. If ((their)) an overtime exempt employee's normal work in a work week is less than 40 hours, paid sick time and paid safe time accrues based upon that particular employee's normal work

week.

E. Paid sick time and paid safe time as provided in this Section 14.16.025 shall begin to accrue at the commencement of employment. ~~((For individuals employed on September 1, 2012, accrual shall begin on September 1, 2012. Accrual rates shall not apply to hours worked before September 1, 2012.))~~

F. Except as provided in Section 14.16.040, an employee((s)) shall be entitled to use accrued paid sick time ~~((€))~~ and paid safe time beginning on the ~~((180th))~~ 90th calendar day after the commencement of ~~((their))~~ employment. When an employee is separated from employment and rehired within ~~((seven))~~ 12 months of separation by the same employer, the previous period of employment shall be counted for purposes of determining the employee's eligibility to use accrued paid sick time ~~((€))~~ and safe time under this subsection 14.16.025.F, provided that if separation does occur, the total time of employment used to determine eligibility must occur within three calendar years.

G. Unused paid sick time and paid safe time shall be carried over to the following ~~((benefit))~~ year; however, no Tier 1 employer shall be required to allow an employee to carry over a combined total of paid sick time and paid safe time in excess of 40 hours, no Tier 2 employer shall be required to allow an employee to carry over a combined total of paid sick time and paid safe time in excess of 56 hours and no Tier 3 employer shall be required to allow an employee to carry over a combined total of paid sick time and paid safe time in excess of 72 hours.

H. A Tier 1 or Tier 2 employer with a combined or universal paid leave policy, such as a paid time off (PTO) policy, is not required to provide additional paid sick and paid safe ~~((leave,))~~ time, provided that:

1. Available paid leave may be used for the same purposes and under the same conditions as paid sick and paid safe time as set forth in Section 14.16.030; and
2. Paid leave is accrued at the rate consistent with subsection 14.16.025.B.1; and
3. ~~((Use of paid leave within any benefit year is limited to no less than the amounts specified respectively for Tier 1 and Tier 2 employers in subsection 14.16.025.C; and~~

4.)) Any accrued but unused paid leave may be carried over to the following ~~((benefit))~~ year consistent with subsection 14.16.025.G.

I. A Tier 3 employer with a combined or universal paid leave policy, such as a PTO policy, is not required to provide additional paid sick and paid safe ~~((leave,))~~ time, provided that:

1. Available paid leave may be used for the same purposes and under the same conditions as paid sick and paid safe time as set forth in Section 14.16.030; and

2. Paid leave is accrued at a rate consistent with subsection 14.16.025.B.2; and

3. ~~((Use of paid leave within any benefit year is limited to no less than 108 hours; and~~

4.)) Any accrued but unused paid leave may be carried over to the following ~~((benefit))~~ year; however no Tier 3 employer with a combined or universal paid leave policy shall be required to carry over unused leave in excess of 108 hours.

J. Nothing in this Section 14.16.025 shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement, or other separation from employment for accrued paid sick and paid safe time that has not been used.

K. When an employee is transferred to a separate division, entity, or location within the geographic ~~((limits))~~ boundaries of the City, or transferred out of the geographic ~~((limits))~~ boundaries of the City and then transferred back to a division, entity, or location within the geographic ~~((limits))~~ boundaries of the City, but remains employed by the same employer, the employee is entitled to all paid sick and paid safe time accrued at the prior division, entity, or location and is entitled to use all paid sick and paid safe time as provided in this Chapter 14.16.

L. When there is a separation from employment and the employee is rehired within ~~((seven))~~ 12 months of separation by the same employer, previously accrued paid sick and paid safe time that had not been used shall be reinstated. Further, the employee shall be entitled to use accrued paid sick and paid safe time and accrue additional sick and safe time immediately upon the re-commencement of employment, provided that the

employee had previously been eligible to use paid sick and paid safe time. If there is a separation of more than ~~((seven))~~ 12 months, an employer shall not be required to reinstate accrued paid sick and paid safe time and for the purposes of this Chapter 14.16 the rehired employee shall be considered to have newly commenced employment.

M. When an employer quits, sells out, exchanges, or disposes the employer's business, or the employer's business is otherwise acquired by a successor, an employee shall retain all accrued paid sick and paid safe time and is entitled to use all paid sick and paid safe time as provided in this Chapter 14.16 for work scheduled within the geographic boundaries of the City for the successor employer.

N. Subject to terms and conditions established by the employer, the employer may, but is not required to, loan paid sick time and paid safe time to the employee in advance of accrual by such employee.

Section 5. Section 14.16.030 of the Seattle Municipal Code, last amended by Ordinance 124960, is amended as follows:

14.16.030 Use of paid sick time and paid safe time

A.

1. Paid sick time shall be provided to an employee by an employer. An employee is authorized to use paid sick time for the following reasons:

a. An absence resulting from an employee's mental or physical illness, injury, or health condition; to accommodate the employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or an employee's need for preventive medical care; ~~((or))~~ and

b. To allow the employee to provide care of a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or care of a family member who needs preventive medical care.

2. Paid safe time shall be provided to an employee by an employer. An employee is authorized

to use paid safe time for the following reasons:

a. When the employee's place of business has been closed by order of a public official, for any health-related reason, to limit exposure to an infectious agent, biological toxin, or hazardous material;

b. ~~((To accommodate the employee's need to care for a child whose school or place of care has been closed by order of a public official for such a reason;))~~ When the employee's child's school or place of care has been closed by order of a public official, for any health-related reason, to limit exposure to an infection agent, biological toxin, or hazardous material; ~~((and))~~ and

c. For any of the following reasons related to domestic violence, sexual assault, or stalking, as set out in RCW 49.76.030:

1) To enable the employee to seek legal or law enforcement assistance or remedies to ensure the health and safety of the employee or the employee's family or household members including, but not limited to, preparing for, or participating in, any civil or criminal legal proceeding related to or derived from domestic violence, sexual assault, or stalking;

2) To enable the employee to seek treatment by a health care provider for physical or mental injuries caused by domestic violence, sexual assault, or stalking, or to attend to health care treatment for a victim who is the employee's family or household member;

3) To enable the employee to obtain, or assist a family or household member in obtaining, services from a domestic violence shelter, rape crisis center, or other social services program for relief from domestic violence, sexual assault, or stalking;

4) To enable the employee to obtain, or assist a family or household member in obtaining, mental health counseling related to an incident of domestic violence, sexual assault, or stalking, in which the employee or the employee's family or household member was a victim of domestic violence, sexual assault, or stalking; or

5) To enable the employee to participate in safety planning, temporarily or

permanently relocate, or take other actions to increase the safety of the employee or employee's family or household members from future domestic violence, sexual assault, or stalking.

B. Paid sick time and paid safe time shall be provided upon the request of an employee. When possible, ~~((the))~~ an employee's request shall include the expected duration of the absence. An employer may require an employee to provide reasonable notice of an absence from work, and comply with the employer's usual and customary notice and procedural requirements for absences and/or requesting leave, provided that such requirements do not interfere with the purposes for which the ~~((leave))~~ the paid sick and paid safe time is needed.

1. If the paid leave is foreseeable, the employee must provide a written request ~~((shall be provided))~~ at least ten days, or as early as possible, in advance of the paid leave, unless the employer's normal notice policy requires less advance notice ~~((;))~~ .

2. If the paid 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.

C. For ~~((employees covered by the overtime requirements of state and federal laws,))~~ overtime eligible employees, accrued paid sick time and paid safe time shall be used in ~~((the smaller of))~~ hourly increments ~~((or, if feasible by the employer's payroll system, increments that round to the nearest quarter of an hour.))~~ or, if an employer's payroll system tracks compensation in increments of less than one hour, in the smallest increment in which compensation is tracked. ~~((When using quarter-hour increments, employers shall use an employee's available paid sick and paid safe time to round up or down to the nearest quarter hour if necessary to prevent an employer's absence control policy from counting paid sick or paid safe time covered under this Chapter 14.16 as an absence that may lead to or result in any adverse action taken against the employee.))~~ For overtime exempt employees, an employer may make deductions of paid sick time and paid safe time in accordance with state and federal laws. For overtime exempt public employees, paid sick time and paid safe time must be used

in accordance with a pay system established by statute, ordinance, or regulation, or by a policy or practice established pursuant to the principles of public accountability.

D. When the use of accrued time is foreseeable, the employee shall make a reasonable effort to schedule the use of paid sick time or paid safe time in a manner that does not unduly disrupt the operations of the employer.

E. For use of paid sick time of more than three consecutive days for a reason set out in subsection 14.16.030.A.1, an employer may require reasonable ~~((documentation))~~ verification that the employee's use of paid sick time is for an authorized purpose covered by subsection 14.16.030.A.1. If an employer requires reasonable verification, such verification must be provided to the employer within a reasonable time period during or after the leave. An employer's requirements for reasonable verification may not result in an unreasonable burden or expense on the employee and may not exceed privacy or verification requirements otherwise established by law. Documentation signed by a health care provider indicating that sick time is necessary, and other documentation authorized pursuant to rules issued by the Director, shall be considered reasonable ~~((documentation-))~~ verification.

1. An employer may not require that the documentation explain the nature of the illness.

2. For any employee who is not offered health insurance by the employer, the employer and the employee shall each pay half the cost of any out-of-pocket expense incurred by the employee in obtaining the employer-requested documentation. These expenses are limited to the cost of services provided by health care ~~((professionals,))~~ providers, the services of health care facilities, testing prescribed by health care ~~((professionals))~~ providers, and transportation to the location where such services are provided. An employee who has declined to participate in the health insurance program offered by the employer shall not be entitled to reimbursement for out-of-pocket expenses.

F. For use of ~~(())~~ paid safe time ~~(())~~ of more than three consecutive days for a reason set out in subsection 14.16.030.A.2, an employer may require reasonable verification that the employee's use of paid safe

time is for an authorized purpose covered by subsection 14.16.030.A.2. If an employer requires reasonable verification, such verification must be provided to the employer within a reasonable time period during or after the leave. An employer's requirements for reasonable verification may not result in an unreasonable burden or expense on the employee and may not exceed privacy or verification requirements otherwise established by law.

1. ~~((an))~~ An employer may require that requests under subsections 14.16.030.A.2.a and 14.16.030.A.2.b be supported by verification of a closure order by a public official of the employee's place of business, or employee's child's school or ((childcare establishment,)) place of care, and the employee may satisfy this verification request by providing notice of the closure order in whatever format the employee received the notice ~~((;))~~ .

2. ~~((an))~~ An employer may require that requests under subsection 14.16.030.A.2.c be supported by verification that the employee or employee's family or household member is a victim of domestic violence, sexual assault, or stalking, and that the leave taken was for one of the purposes covered by subsection 14.16.030.A.2.c. ~~((As set out in RCW 49.76.040(4), an))~~ An employee may satisfy this verification requirement by one or more of the following methods:

a. ~~((a police report indicating that the employee or employee's family member was a victim of domestic violence, sexual assault, or stalking;))~~ An employee's written statement that the employee or the employee's family or household member is a victim of domestic violence, sexual assault, or stalking and that the leave taken was for one of the purposes of subsection 14.16.030.A.2.c;

b. ~~((a court order protecting or separating the employee or employee's family member from the perpetrator of the act of domestic violence, sexual assault, or stalking, or other evidence from the court or the prosecuting attorney that the employee or employee's family member appeared, or is scheduled to appear, in court in connection with an incident of domestic violence, sexual assault, or stalking; or))~~ A police report indicating that the employee or employee's family or household member was a victim of domestic violence,

sexual assault, or stalking;

~~c. ((documentation that the employee or the employee's family member is a victim of domestic violence, sexual assault, or stalking, from any of the following persons from whom the employee or employee's family member sought assistance in addressing the domestic violence, sexual assault, or stalking: an advocate for victims of domestic violence, sexual assault, or stalking; an attorney; a member of the clergy; or a medical or other professional. The provision of documentation under this Section 14.16.030 does not waive or diminish the confidential or privileged nature of communications between a victim of domestic violence, sexual assault, or stalking with one or more of the individuals named in this subsection 14.16.030.F.2.c; or)) A court order protecting or separating the employee or employee's family or household member from the perpetrator of the act of domestic violence, sexual assault, or stalking, or other evidence from the court or the prosecuting attorney that the employee or employee's family or household member appeared, or is scheduled to appear, in court in connection with an incident of domestic violence, sexual assault, or stalking; or~~

~~d. ((an employee's written statement that the employee or the employee's family member is a victim of domestic violence, sexual assault, or stalking and that the leave taken was for one of the purposes of subsection 14.16.030.A.2.e.)) Documentation that the employee or the employee's family or household member is a victim of domestic violence, sexual assault, or stalking, from any of the following persons from whom the employee or employee's family or household member sought assistance in addressing the domestic violence, sexual assault, or stalking: an advocate for victims of domestic violence, sexual assault, or stalking; an attorney; a member of the clergy; or a medical or other professional. The provision of documentation under this Section 14.16.030 does not waive or diminish the confidential or privileged nature of communications between a victim of domestic violence, sexual assault, or stalking with one or more of the individuals named in this subsection 14.16.030.F.2.d.~~

G. Upon mutual consent by the employee and the employer, an employee may work additional hours or shifts during the same or next pay period without using available paid sick or paid safe time for the original

missed hours or shifts. However, the employer may not require the employee to work such additional hours or shifts. Should the employee work additional shifts, the employer shall comply with any applicable federal, state, or local laws concerning overtime pay.

H. Nothing in this Chapter 14.16 shall be construed to prohibit an employer from establishing a policy whereby employees may voluntarily exchange assigned hours or "trade shifts."

I. ~~((When paid sick or paid safe time is requested by an employee who works in an eating and/or drinking establishment, the employer may offer the employee substitute hours or shifts. If the employee accepts the offer and works these substitute hours or shifts, the amount of time worked during the substitute period or the amount of time requested for sick and safe time, whichever is smaller, may be deducted from the employee's accrued sick and safe time. Should the employee work the substitute hours or shifts, the employer shall comply with any applicable federal, state or local laws concerning overtime pay. However, no employer is required to offer such substitute hours or shifts, and no employee is required to accept such hours or shifts if they are offered.))~~ An employer may not ask, or require as a condition of an employee taking paid sick and paid safe time, that the employee search for or find a replacement worker to cover the hours during which the employee uses paid sick and paid safe time.

J. Nothing in this Chapter 14.16 shall be construed to prohibit an employer from establishing a policy whereby employees may donate unused accrued paid sick ~~((leave))~~ and paid safe time to another employee.

K. Each time wages are paid, employers shall provide~~((, in writing, information))~~ each employee with written notification stating an updated amount of paid sick and paid safe time available to each employee for use as either paid sick time or paid safe time. The updated amount shall include accrued paid sick and paid safe time since the last notification, reduced paid sick and paid safe time since the last notification, and any unused paid sick and paid safe time available for use. Employers may choose a reasonable system for providing this notification, including, but not limited to, listing ~~((remaining))~~ available paid ~~((time))~~ leave on each pay stub or developing an online system where employees can access their own paid leave information.

Section 6. Section 14.16.040 of the Seattle Municipal Code, last amended by Ordinance 124960, is amended as follows:

14.16.040 New employers

The provisions of this Chapter 14.16 that are more generous than those provisions requiring paid sick leave under chapter 49.46 RCW and chapter 296-128 WAC, including but not limited to more generous requirements for carry over for Tier 2 employers under Section 14.16.025, shall not apply to Tier 1 and Tier 2 employers until 24 months after the hire date of their first employee. For purposes of this Section 14.16.040, employer tier shall be calculated based upon the average number of full-time equivalents who worked for compensation per calendar week during the first 90 calendar days following the hire date of their first employee.

Section 7. Subsection 14.16.045.C of the Seattle Municipal Code, which section was enacted by Ordinance 124960, is amended as follows:

14.16.045 Notice and posting

C. (~~Effective April 1, 2016, employers shall give employees written notice of the employer's policy and procedure for meeting the requirements of this Chapter 14.16, including but not limited to the employer's choice of benefit year; tier size; rate of accrual, use and carry-over of paid sick and paid safe time hours; manner of providing employees with an updated amount of available paid sick and safe time hours each time wages are paid; and notification requirements for absences and requesting leave.~~) Employers shall provide each employee with written notice of the employer's policy and procedure for meeting the requirements of this Chapter 14.16.

1. The employer's policy and procedure shall include:

a. The employee's right to paid sick and paid safe time under this Chapter 14.16;

b. Whether the employer is using a year other than the calendar year for providing paid sick and paid safe time;

c. The employer's tier size under this Chapter 14.16;

- d. The employer's rate of accrual and carry over of paid sick and paid safe time;
- e. The authorized purposes under which paid sick and paid safe time may be used;
- f. The manner of providing employees with notification of available paid sick and paid safe time each time wages are paid;
- g. The reasonable notice requirements for requesting use of paid sick and paid safe time;
- h. Prohibitions against retaliation for use of paid sick and paid safe time;
- i. If applicable, explanation of:
 - 1) Verification for use of paid sick and paid safe time for more than three consecutive days;
 - 2) Use of frontloaded paid sick and paid safe time;
 - 3) Universal paid leave policy;
 - 4) Shared paid sick and paid safe time program in which an employee may choose to donate paid sick and paid safe time to a co-worker; and
- j. Other information that is material and necessary to effectuate the terms of this Chapter 14.16, pursuant to rules issued by the Director.

2. The Agency shall create and distribute a model policy that employers may use for complying with this subsection 14.16.045.C.

Section 8. Subsection 14.16.050.A of the Seattle Municipal Code, which section was last amended by Ordinance 124960, is amended as follows:

14.16.050 Employer records

A. Each employer shall retain records ~~((documenting hours worked by employees and paid sick and paid safe time used by covered employees.))~~ that document compliance with this Chapter 14.16 for each employee including: the date of commencement of employment; hours worked including hours worked within the geographic boundaries of the City; paid sick and paid safe time accrued, and any unused paid sick and paid

safe time available for use; paid sick and paid safe time reductions including but not limited to paid sick and paid safe time used, paid sick and paid safe time donated to a co-worker through a shared leave program, or paid sick and paid safe time not carried over to the following year; and pursuant to rules issued by the Director, other records that are material and necessary to effectuate the terms of this Chapter 14.16. Such records shall be retained for a period of three years from the date such hours were worked or such paid sick and paid safe time was used. ~~((Employers shall not be required to modify their recordkeeping policies to comply with this Section 14.16.050, as long as records reasonably indicate employee hours worked in Seattle, accrued paid sick and paid safe time, and used paid sick and paid safe time.))~~

* * *

Section 9. Subsection 14.16.055.A of the Seattle Municipal Code, which section was enacted by Ordinance 124960, is amended as follows:

14.16.055 Retaliation prohibited

A. No employer or any other person shall interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this Chapter 14.16. An employer may not adopt or enforce any policy that counts the use of paid sick and paid safe time as an absence that may lead to or result in discipline against the employee.

* * *

Section 10. Section 14.16.120 of the Seattle Municipal Code, last amended by Ordinance 124960, is amended as follows:

14.16.120 Waiver; Effect on collective bargaining rights

A. A waiver by employees covered by a bona fide collective bargaining agreement of provisions of this Chapter 14.16 is permitted as follows:

1. ~~((The))~~ Effective September 12, 2012 through December 31, 2017, the provisions of this Chapter 14.16 shall not apply to any 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.

2. Effective January 1, 2018 through the later of: December 31, 2018; or the expiration of a collective bargaining agreement in existence on December 31, 2018; the provisions of this Chapter 14.16 that are more generous than those provisions requiring paid sick leave under chapter 49.46 RCW and chapter 296-128 WAC, including but not limited to more generous requirements for accrual and carry over for Tier 2 and Tier 3 employers under Section 14.16.025, shall not apply to any employees covered by a bona fide collective bargaining agreement to the extent that:

a. Such requirements are expressly waived in the collective bargaining agreement, or in an addendum to an existing agreement including an agreement that is open for negotiation;

b. The waiver is in clear and unambiguous terms and shall not impede the ability of the Office of Labor Standards to enforce any unwaived portions of this Chapter 14.16; and

c. Any labor organization that seeks to extend a waiver beyond January 1, 2018, files information on the pertinent collective bargaining agreement with the Office of Labor Standards. The information should include the name of the employer, the labor organization, the covered employees, the term of the collective bargaining agreement, and the language of the waiver. The information shall be filed with the Office of Labor Standards by the end of January 2018 or, for collective bargaining agreements ratified in 2018, within 30 days of the ratification date of such a collective bargaining agreement.

3. Effective on the later of: January 1, 2019; or the expiration of a collective bargaining agreement in existence on December 31, 2018; any waiver by employees covered by a bona fide collective bargaining agreement shall be deemed contrary to public policy and shall be void and unenforceable.

B. ((Any)) With the exceptions noted in subsection 14.16.120.A, any waiver by an individual of any provisions of this Chapter 14.16 shall be deemed contrary to public policy and shall be void and unenforceable.

Section 11. The name of Chapter 14.22, enacted by Ordinance 125135, is amended as follows:

CHAPTER 14.22 SECURE SCHEDULING

Section 12. Section 14.22.010 of the Seattle Municipal Code, last amended by Ordinance 125203, is amended as follows:

14.22.010 Definitions

* * *

"Food services establishment" means the fixed point of sale location for food services contractors; caterers; mobile food services; drinking places (alcoholic beverages); full service restaurants; limited-service restaurants; cafeterias, grill buffets, and buffets; and snack and nonalcoholic beverage bars, as defined under the 2012 and 2017 North American Industry Classification System ("NAICS") 722, or other subsequent edition of the NAICS designated pursuant to rules issued by the Director.

* * *

"Retail establishment" means the fixed point-of-sale location of a store retailer, as defined under the 2012 and 2017 North American Industry Classification System ("NAICS") 441 through 453998, or other subsequent edition of the NAICS designated pursuant to rules issued by the Director.

* * *

Section 13. Section 14.22.020 of the Seattle Municipal Code, enacted by Ordinance 125135, is amended as follows:

14.22.020 Employer coverage

A. For the purposes of this Chapter 14.22, covered employers are limited to:

1. ~~((retail))~~ Retail establishments that employ 500 or more employees worldwide regardless of where those employees are employed, including but not limited to chains, integrated enterprises, or franchises associated with a franchisor or network of franchises that employ ~~((more than))~~ 500 or more employees in aggregate.

2. ~~((food))~~ Food services establishments that employ 500 or more employees worldwide

regardless of where those employees are employed, including but not limited to chains, integrated enterprises, or franchises associated with a franchisor or network of franchises that employ ~~((more than))~~ 500 or more employees in aggregate. In addition to employing 500 or more employees worldwide, "full service restaurants" also must have 40 or more full service restaurant locations worldwide, including but not limited to locations that are a part of a chain, integrated enterprise, or franchise where the franchisor owns or operates 40 or more such establishments in aggregate.

B. To determine the number of employees for the current calendar year, the calculation shall be based upon(~~(:~~

~~1.))~~ The average number per calendar week of employees who worked for compensation during the preceding calendar year for any and all weeks during which at least one employee worked for compensation.

1. For employers that did not have any employees during the previous calendar year, the number of employee[s] will be calculated based upon the average number per calendar week of employees who worked for compensation during the first 90 calendar days of the current year in which the employer engaged in business. ~~((; and))~~

~~2. ((All hours worked for compensation by all employees,))~~ All employees who worked for compensation shall be counted, including but not limited to:

- a. ~~((Work performed by employees))~~ Employees who are not covered by this Chapter 14.22;
- b. ~~((Work performed by employees))~~ Employees who worked inside the City;
- c. ~~((Work performed by employees))~~ Employees who worked outside the City; and
- d. ~~((Work performed by employees))~~ Employees who worked in full-time employment, part-time employment, joint employment, temporary employment, or through the services of a temporary services or staffing agency or similar entity.

* * *

Section 14. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2017, and signed by me in open session in authentication of its passage this _____ day of _____, 2017.

President _____ of the City Council

Approved by me this _____ day of _____, 2017.

Jenny A. Durkan, Mayor

Filed by me this _____ day of _____, 2017.

Monica Martinez Simmons, City Clerk

(Seal)