



Legislation Details (With Text)

File #: CB 119754 **Version:** 2 **Name:** CB 119754
Type: Ordinance (Ord) **Status:** Passed
In control: City Clerk

On agenda: 3/16/2020
Final Action: 3/18/2020 **Ord. No.** Ord 126056

Title: AN ORDINANCE relating to employment in Seattle; amending Sections 14.16.010 and 14.16.030 of the Seattle Municipal Code to strengthen and clarify labor standards requirements for paid sick and paid safe time for employees working in Seattle; declaring an emergency; and establishing an immediate effective date; all by a 3/4 vote of the City Council.

Sponsors: Teresa Mosqueda

Indexes:

Attachments: 1. Summary and Fiscal Note, 2. Central Staff Memo (3/16/20), 3. Proposed Amendment 1, 4. Proposed Amendment 2, 5. Signed Ordinance 126056, 6. Affidavit of Publication

| Date | Ver. | Action By | Action | Result |
|-----------|------|----------------------------|---------------------------------|--------|
| 3/18/2020 | 2 | City Clerk | attested by City Clerk | |
| 3/18/2020 | 2 | Mayor | returned | |
| 3/18/2020 | 2 | Mayor | Signed | |
| 3/17/2020 | 2 | City Clerk | submitted for Mayor's signature | |
| 3/16/2020 | 1 | City Council | passed as amended | Pass |
| 3/9/2020 | 1 | City Council | referred | |
| 3/9/2020 | 1 | Council President's Office | sent for review | |
| 3/9/2020 | 1 | City Clerk | sent for review | |

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to employment in Seattle; amending Sections 14.16.010 and 14.16.030 of the Seattle Municipal Code to strengthen and clarify labor standards requirements for paid sick and paid safe time for employees working in Seattle; declaring an emergency; and establishing an immediate effective date; all by a 3/4 vote of the City Council.

WHEREAS, in September 2011, The City of Seattle (“City”) became the fifth jurisdiction in the country to pass legislation requiring employers to provide employees with paid leave to care for their personal and family members’ medical and critical safety needs, and the Paid Sick and Safe Time Ordinance, Seattle Municipal Code (SMC) Chapter 14.16, went into effect for many employees working in Seattle on

September 1, 2012; and

WHEREAS, in December 2015, the City passed amendments to the Paid Sick and Safe Time Ordinance to prescribe additional remedies and enforcement procedures, and the legislation went into effect on January 16, 2016; and

WHEREAS, in November 2016, the people of Washington passed Initiative Measure No. 1433, amending chapter 49.46 RCW to require employers to provide employees with paid leave to care for their personal and family members' medical conditions and critical safety needs, and the legislation went into effect for many employees working in Washington state on January 1, 2018; and

WHEREAS, in December 2017, the City passed amendments to the Paid Sick and Safe Time Ordinance to expand requirements to align with Initiative Measure No. 1433, and the legislation went into effect for all employees working in Seattle on January 10, 2018; and

WHEREAS, in August 2016, researchers Stefan Pichler and Nicolas Robert Ziebarth issued a report, "The Pros and Cons of Sick Pay Schemes: Testing for Contagious Presenteeism and Noncontagious Absenteeism Behavior," concluding that mandatory paid sick leave policies in U.S. cities, including Seattle, clearly and significantly reduced the rates of influenza-like illness; and

WHEREAS, the City is a leader on wage, labor, and workforce practices that improve workers' lives, support economic security, and contribute to a fair, healthy, and vibrant economy; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The City Council ("Council") makes the following legislative findings of fact and declarations:

A. In the exercise of the City of Seattle's police powers, the City is granted authority to pass regulations designed to protect and promote public peace, health, safety, welfare, and prosperity.

B. On January 24, 2020, the Seattle Office of Emergency Management announced that the first reported case in Washington and in the United States of novel coronavirus (COVID-19) occurred in Snohomish County.

C. On February 28, 2020, Public Health - Seattle and King County announced the first King County and United States death due to COVID-19 at Evergreen Hospital in Kirkland, Washington.

D. On February 29, 2020, Washington Governor Jay Inslee declared a state of emergency in response to new cases of COVID-19, directing state agencies to use all resources necessary to prepare for and respond to the outbreak.

E. On March 3, 2020, Mayor Jenny Durkan issued a proclamation of civil emergency in response to new cases of COVID-19, authorizing the Mayor to exercise the emergency powers necessary for the protection of the public peace, safety, and welfare.

F. On March 3, 2020, the World Health Organization Situation Report confirmed a total of 91,783 cases of COVID-19 in 74 countries, including 3,123 deaths; and that in the past few days, more confirmed cases have been found across the United States, including in new areas such as California, Illinois, Florida, Rhode Island, and New York.

G. On March 5, 2020, Public Health and King County 51 confirmed cases of COVID-19, including 10 deaths, in King County.

H. The impacts of the emerging public health crisis on the operation of businesses, schools, and places of care in the City are multifaceted and nuanced and are not easily defined or predictable. These impacts may result in reduced operations or closures. Expanding the use of paid sick and paid safe time to include situations when an employee's place of business reduces operations or is closed, or when an employee's family member's school or place of care is closed, is necessary as an additional step to protect public health and to support the stabilization of an employee's income while the COVID-19 emergency exists and in the future.

I. In addition to the importance of addressing impacts of the COVID-19 pandemic, it is important to families that paid sick and paid safe time be available also when schools and places of care are closed in the future.

Section 2. Section 14.16.010 of the Seattle Municipal Code, last amended by Ordinance 125499, is

amended as follows:

14.16.010 Definitions

For purposes of this Chapter 14.16:

* * *

“Paid sick 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 authorized in subsection 14.16.030.A.1, for which time an employee shall be compensated at the 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. 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 a child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling.

a. “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.

b. “Parent” means a biological parent, adoptive parent, 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.

“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 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, “family member” means a child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling.

a. ~~((“child”))~~ “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.

b. “Parent” means a biological parent, adoptive parent, 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.

2. For purposes of determining eligibility for “paid safe time” for absences that qualify for leave under subsection ~~((14.16.030.A.2.c.))~~ 14.16.030.A.2.d:

~~((1.))~~ a. “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.))~~ b. “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.

~~((3.))~~ c. “Domestic violence” means:

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

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

~~((c.))~~ 3) Stalking of one family or household member by another family or

household member.

~~((4.))~~ d. “Stalking” means stalking as defined in RCW 49.76.020.

~~((5.))~~ e. “Dating relationship” means a social relationship of a romantic nature, as defined in RCW 49.76.020.

~~((6.))~~ f. “Sexual assault” means sexual assault as defined in RCW 49.76.020.

* * *

Section 3. Section 14.16.030 of the Seattle Municipal Code, last amended by Ordinance 125499, is amended as follows:

14.16.030 Use of paid sick 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; 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. When the employee's place of business for a Tier 3 employer has reduced operations

or closed for any health- or safety-related reason;

c. When the employee's (~~(child's)~~) family member'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 infectious agent, biological toxin, or hazardous material))~~); and

~~((e-))~~ d. 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.

* * *

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 employer may require that requests under subsections 14.16.030.A.2.a ~~((and 14.16.030.A.2.b))~~ through 14.16.030.A.2.c be supported by verification of a ~~((closure order))~~ notice of reduced operations or closure ~~((by a public official of the employee's place of business, or employee's child's school or place of care,))~~ and the employee may satisfy this verification request by providing ~~((notice of))~~ the ~~((closure order))~~ notice, or a copy of the notice, in whatever format the employee received ~~((the notice))~~ it.

2. An employer may require that requests under subsection ~~((14.16.030.A.2.e))~~ 14.16.030.A.2.d 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.e))~~ 14.16.030.A.2.d. An employee may satisfy this verification requirement by one or more of the following methods:

a. 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.e))~~ 14.16.030.A.2.d;

b. 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. 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. 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.

Section 4. Based on the findings of fact set forth in Section 1 of this ordinance, the Council finds and declares that this ordinance is a public emergency ordinance, which shall take effect immediately and is necessary for the protection of the public health, safety, and welfare.

A.

Section 5. By reason of the findings set out in Section 1, and the emergency that is hereby declared to exist, this ordinance shall become effective immediately upon its passage by a 3/4 vote of the Council and its approval by the Mayor, as provided by Article 4, subsection 1.1 of the Charter of the City.

Passed by a 3/4 vote of all members of the City Council the _____ day of _____, 2020, and signed by me in open session in authentication of its passage this _____ day of _____, 2020.

President _____ of the City Council

Approved by me this _____ day of _____, 2020.

Jenny A. Durkan, Mayor

Filed by me this _____ day of _____, 2020.

Monica Martinez Simmons, City Clerk

(Seal)