

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE relating to taxation; imposing an employee hours tax; adding a new Chapter 5.38 to Title 5 of the Seattle Municipal Code; and amending Sections 5.30.010, 5.55.010, 5.55.040, 5.55.060, 5.55.150, 5.55.165, 5.55.220, and 5.55.230 of the Seattle Municipal Code.

..body

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new Chapter 5.38 is added to the Seattle Municipal Code as follows:

Chapter 5.38 - EMPLOYEE HOURS TAX

5.38.010 - Administrative provisions

All of the provisions contained in Chapter 5.55 shall have full force and application with respect to taxes imposed under the provisions of this Chapter 5.38 except as may be expressly stated to the contrary herein.

5.38.020 - Definitions

The definitions contained in Chapter 5.30 shall be fully applicable to this Chapter 5.38 except as may be expressly stated to the contrary herein. The following additional definitions shall apply throughout this Chapter 5.38:

“Business” means any person engaging in business as defined in Section 5.30.030.

“Employee” means any person who performs work, labor, or services for a business, is on the business’s payroll, and performs any part of their duties within the City of Seattle. For purposes of this Chapter 5.38, the term “employee” also includes all full-time, part-time, and temporary employees or workers on the business’ payroll. A business’s payroll includes the payroll of any related company that acts as a paymaster for the related entities. Sole proprietors and partners shall be considered employees.

1 “Full-time employee” means an employee who works at least 1,920 hours in a calendar
2 year.

3 “Part-time employee” means an employee who works fewer than 1,920 hours in a
4 calendar year.

5 "Payroll" means the regular remuneration by a business to the individuals who perform
6 work, labor, services, or make other similar contributions for the business. Payroll includes, but
7 is not limited to, salaries, wages, or other draws or distributions made to employees, officers,
8 partners, or members of Limited Liability Companies and Professional Limited Liability
9 Companies as compensation for their labor and services.

10 **5.38.030 - Tax imposed – Measure of the tax**

11 A. Beginning on January 1, 2019, an employee hours tax is hereby levied upon and shall be
12 collected from every person for the act or privilege of engaging in business activities within
13 the City. The tax shall be measured by the number of employee hours of work conducted
14 within the City during the calendar year.

15 B. The amount of the tax shall be equal to the employee hours worked within the City during
16 the calendar year, multiplied by the rate of \$0.052083 per hour worked. The employee hours
17 worked excludes vacation and sick leave hours. If an employee works within and outside the
18 City, it will be the responsibility of the business to calculate and report the number of hours
19 worked within the City.

20 C. Alternative Full Time Equivalent (FTE) calculation method. A business may choose to
21 calculate its annual employee hours tax based on the number of its FTE employees as
22 follows:

- 1 1. Calculation of FTEs. The number of FTE employees for the calendar year is (i) the
2 number of a business' full time employees for the calendar year, plus (ii) the sum of
3 the hours worked by part-time employees in the calendar year divided by 1,920 hours.
- 4 2. Tax. Any fractional FTE remaining after the determination of FTE employees under
5 subsection 5.38.030.C.1 shall be rounded up to the nearest whole number. Once the
6 number of FTE employees is thus determined, that number shall be multiplied by
7 \$100 to determine the annual employee hours tax. Once the FTE alternative method
8 is used, it must be used for all future reporting periods, unless a change is approved
9 by the Director.

10 D. Businesses with more than one place of business must use the same method of calculation for
11 all places of business.

12 E. The tax applies to employee hours worked or FTEs inside the City regardless of whether the
13 place of business is located within or outside of the City.

14 F. Temporary employment agencies that supply temporary employees to business engaging in
15 business activities within the City, and pay the temporary employee's salary, shall report and
16 pay the tax on all such temporary employees. Businesses engaging temporary employees
17 who are on the business' payroll shall report and pay the tax on the employee hours of such
18 temporary employees, whether or not they are from an employment agency.

19 **5.38.040 - Employee hours tax – When due**

20 The employee hours tax shall be reported and paid on an annual calendar year basis, at
21 the same time as the fourth quarter or annual tax return is due in accordance with Section
22 5.55.040, and on forms as prescribed by the Director. Persons discontinuing their business

1 activities in Seattle shall report and pay the tax at the same time as their final business tax return
2 is due.

3 **5.38.050 - Exemptions from the employee hours tax**

4 A. The following are exempt from the employee hour tax:

- 5 1. Any business having annual taxable gross income of \$5,000,000 or less.
- 6 2. Businesses that are preempted from taxation by cities pursuant to federal or state
7 statutes or regulations, including, but not limited to, the following:
 - 8 a. Insurance businesses and their agents as defined by RCW 48.01.050 and
9 48.17.010, respectively, and whose total revenue is exempt from the business
10 license tax per Chapter 5.45.
 - 11 b. Businesses that only sell, manufacture, or distribute motor vehicle fuel as
12 defined in RCW 82.38.020 and exempted under RCW 82.38.080.
 - 13 c. Businesses that only distribute or sell liquor as defined in RCW 66.04.010 and
14 exempted in RCW 66.08.120.
 - 15 d. Federal and state government agencies and subdivisions.
- 16 3. Volunteers and persons providing services in return for only aid or sustenance from
17 religious or charitable organizations.

18 **5.38.060 - Tax in addition to other license fees or taxes**

19 The tax imposed herein shall be in addition to any license fee or tax imposed or levied
20 under any other law, statute or ordinance whether imposed or levied by the City, State or other
21 governmental entity or political subdivision.

22 Section 2. Section 5.30.010 of the Seattle Municipal Code, last amended by Ordinance
23 125324, is amended as follows:

1 **5.30.010 - Definition provisions**

2 The definitions contained in this Chapter 5.30 shall apply to the following chapters of the
3 Seattle Municipal Code: Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax),
4 5.38 (Employee Hours Tax), 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square
5 Footage Tax), 5.48 (Business Tax—Utilities), 5.50 (Firearms and Ammunition Tax), 5.52
6 (Gambling Tax), 5.53 (Sweetened Beverage Tax), and 5.55 (General Administrative Provisions)
7 unless expressly provided for otherwise therein, and shall also apply to other chapters and
8 sections of the Seattle Municipal Code in the manner and to the extent expressly indicated in
9 each chapter or section. Words in the singular number shall include the plural and the plural shall
10 include the singular. Words in one gender shall include the other genders.

11 Section 3. Section 5.55.010 of the Seattle Municipal Code, which was last amended by
12 Ordinance 125324, is amended as follows:

13 **5.55.010 - Application of chapter stated**

14 Unless expressly stated to the contrary in each chapter, the provisions of this Chapter
15 5.55 shall apply with respect to the licenses and taxes imposed under this Chapter 5.55 and
16 Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax), ~~((5.37))~~ 5.38 (Employee
17 Hours Tax~~((es))~~), 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage
18 Tax), 5.48 (Business Tax—Utilities), 5.50 (Firearms and Ammunition Tax), 5.52 (Gambling
19 Tax), 5.53 (Sweetened Beverage Tax), and under other titles, chapters and sections in such
20 manner and to such extent as indicated in each such title, chapter, or section.

21 Section 4. Subsection 5.55.040.A of the Seattle Municipal Code, which section was last
22 amended by Ordinance 125324, is amended as follows:

1 **5.55.040 - When due and payable—Reporting periods—Monthly, quarterly, and annual**
2 **returns—Threshold provisions—Computing time periods—Failure to file returns**

3 A. Other than any annual license fee or registration fee assessed under this Chapter 5.55,
4 the tax imposed by Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax), 5.40
5 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.48 (Business
6 Tax—Utilities), 5.50 (Firearms and Ammunition Tax), 5.52 (Gambling Tax), and 5.53
7 (Sweetened Beverage Tax) shall be due and payable in quarterly installments. The Director may
8 use discretion to assign businesses to a monthly or annual reporting period depending on the tax
9 amount owing or type of tax. Taxes imposed by subsections 5.52.030.A.2 and 5.52.030.B.2 for
10 punchboards and pulltabs shall be due and payable in monthly installments. The Employee
11 Hours Tax imposed by Chapter 5.38 shall be reported and paid on an annual calendar year basis,
12 at the same time as the fourth quarter or annual tax return is due in accordance with Section
13 5.55.040. Tax returns and payments are due on or before the last day of the next month following
14 the end of the assigned reporting period covered by the return.

15 * * *

16 Section 5. Subsection 5.55.060.A of the Seattle Municipal Code, which section was last
17 amended by Ordinance 125324, is amended as follows:

18 **5.55.060 - Records to be preserved—Examination—Inspection—Search warrants—**
19 **Estoppel to question assessment**

20 A. Every person liable for any fee or tax imposed by this Chapter 5.55 and Chapters
21 5.32, 5.35, 5.38, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, and 5.53 shall keep and preserve, for a period
22 of five years after filing a tax return, such records as may be necessary to determine the amount
23 of any fee or tax for which the person may be liable; which records shall include copies of all

1 federal income tax and state tax returns and reports made by the person. All books, records,
2 papers, invoices, ticket stubs, vendor lists, gambling games, and payout information, inventories,
3 stocks of merchandise, and other data, including federal income tax and state tax returns, and
4 reports needed to determine the accuracy of any taxes due, shall be open for inspection or
5 examination at any time by the Director or a duly authorized agent. Every person's business
6 premises shall be open for inspection or examination by the Director or a duly authorized agent.
7 For the purposes of this Section 5.55.060, for the tax imposed by Chapter 5.53, "business
8 premises" means wherever the person's business records and tax documents are maintained and
9 does not mean every site owned or operated by the person.

10 * * *

11 Section 6. Subsection 5.55.150.E of the Seattle Municipal Code, which section was last
12 amended by Ordinance 125324, is amended as follows:

13 **5.55.150 - Appeal to the Hearing Examiner**

14 * * *

15 E. The Hearing Examiner shall ascertain the correct amount of the tax, fee, interest, or
16 penalty due either by affirming, reversing, or modifying an action of the Director. Reversal or
17 modification is proper if the Director's assessment or refund denial violates the terms of this
18 Chapter 5.55, or Chapters 5.30, 5.32, 5.35, (~~5.37,~~) 5.38, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, or
19 5.53.

20 * * *

21 Section 7. Section 5.55.165 of the Seattle Municipal Code, last amended by Ordinance
22 125324, is amended as follows:

23 **5.55.165 - Director of Finance and Administrative Services to make rules**

1 The Director of Finance and Administrative Services shall have the power and it shall be
2 the Director's duty, from time to time, to adopt, publish and enforce rules and regulations not
3 inconsistent with this Chapter 5.55, Chapters 5.30, 5.32, 5.35, 5.38, 5.40, 5.45, 5.46, 5.48, 5.50,
4 5.52, or 5.53, or with law for the purpose of carrying out the provisions of such chapters, and it
5 shall be unlawful to violate or fail to comply with any such rule or regulation.

6 Section 8. Subsections 5.55.220.A and 5.55.220.B of the Seattle Municipal Code, which
7 section was last amended by Ordinance 125324, are amended as follows:

8 **5.55.220 - Unlawful actions—Violation—Penalties**

9 A. It shall be unlawful for any person subject to the provisions of this Chapter 5.55 or Chapters
10 5.32, 5.35, 5.38, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, and 5.53:

- 11 1. To violate or fail to comply with any of the provisions of this Chapter 5.55, or
12 Chapters 5.32, 5.35, 5.38, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, and 5.53, or any lawful
13 rule or regulation adopted by the Director;
- 14 2. To make or manufacture any license required by this Chapter 5.55 except upon
15 authority of the Director;
- 16 3. To make any false statement on any license, application, or tax return;
- 17 4. To aid or abet any person in any attempt to evade payment of a license fee or tax;
- 18 5. To refuse admission to the Director to inspect the premises and/or records as required
19 by this Chapter 5.55, or to otherwise interfere with the Director in the performance of
20 duties imposed by Chapters 5.32, 5.35, 5.38, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, and
21 5.53;

1 Section 10. Severability. If any part, provision or section of this ordinance is held to be
2 void or unconstitutional, all other parts, provisions, and sections of this ordinance not expressly
3 so held to be void or unconstitutional shall continue in full force and effect.

4 Section 11. Pursuant to RCW 35.21.706, this ordinance is subject to the referendum
5 procedure specified in that state law. A referendum petition may be filed within seven days of
6 the passage of the ordinance with the filing officer of the City, which is hereby designated to be
7 the City Clerk, located on the third floor of City Hall, 600 Fourth Avenue, Seattle, Washington.
8 Within ten days of filing the petition, the City Clerk shall confer with the petitioner concerning
9 the form and style of the petition, issue the petition an identification number, and secure an
10 accurate, concise, and positive ballot title from the City Attorney. The petitioner shall then have
11 thirty days in which to secure the signatures of not less than fifteen percent of the registered
12 voters of the City, as of the last municipal general election, upon petition forms which contain
13 the ballot title and the full text of the measure to be referred. Signed petition forms that are
14 timely submitted to the City Clerk shall be transmitted to the King County Director of Records
15 and Elections who shall verify the sufficiency of the signatures on the petition and report to the
16 City Clerk. If sufficient valid signatures are properly submitted, the City Clerk shall so inform
17 the City Council, which shall submit the referendum measure to the voters at a special election to
18 be held on the next City election date, as provided in RCW 29A.04.330, that occurs not less than
19 forty-five days after the county's report of sufficiency is received by the City Clerk, unless a
20 general election will occur within ninety days of receipt of that report, in which event the
21 proposed ordinance will be submitted at the general election. State law, RCW 35.21.706,
22 provides that the referendum procedure in this section is exclusive and that this ordinance is not
23 subject to any other referendum or initiative process.

1 Section 12. Sections 1 through 9 of this ordinance shall take effect on January 1, 2019.

2 Section 13. This ordinance shall take effect and be in force 30 days after its approval by
3 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
4 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

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

8 _____
9 President _____ of the City Council

10 Approved by me this _____ day of _____, 2017.

11 _____
12 _____, Mayor

13 Filed by me this _____ day of _____, 2017.

14 _____
15 Monica Martinez Simmons, City Clerk

16 (Seal)