

November 27, 2012

The Seattle Office for Civil Rights Clarifies Its Interpretation of “Occasional Employee”

By now, all Seattle employers covered by the paid sick and safe leave ordinance should be in compliance. You can find details about the ordinance [here](#).

Now that the ordinance has been in effect for several months, a representative of the Seattle Office for Civil Rights – which is the agency that interprets and enforces the ordinance – has stated that it is expanding its Frequently Asked Questions (“FAQ”) document to provide additional guidance for employers. Although there is no date set for issuance of the revised FAQs, the Office is providing telephonic technical assistance clarifying its position on various issues that have arisen since the ordinance went into effect.

Of interest to many employers, the Office has clarified the scope of the “occasional employee” definition, especially as it applies to employees who spend most of their time outside of Seattle but enter the city to perform work. The [Seattle Office for Civil Rights Rules](#) specify that employees who “work in Seattle on an occasional basis are covered by the Ordinance if they perform more than 240 hours of work in Seattle within a calendar year.” 70-040 (5). The Rules also specify that “[e]mployees who work in Seattle on an occasional basis shall begin to accrue paid sick/safe time upon coverage by the Ordinance (i.e. when they have worked more than 240 hours of work in Seattle within a calendar year).” 70-120(2).

The Office has clarified its interpretation of “occasional” basis. It will distinguish between workers who enter Seattle on a scheduled basis, such as a Friday afternoon shift, and employees who come to Seattle on an unscheduled basis. Only those employees performing Seattle-based work on an unforeseeable, random schedule will be subject to the 240 hour threshold requirement. Non-Seattle employees working in Seattle on a regularly-scheduled basis will accrue sick and safe time from the first hour they work.

At the same time, employers should also ensure that all Seattle-based employees, regardless of how much or little they work, and regardless of whether they work a regular or sporadic schedule, accrue sick and safe time from the first hour they work.

Employers should review their policies to ensure they are consistent with these interpretations. Employers have the opportunity to correct compliance issues now, and would also have the opportunity to bring policies into compliance in the event of an employee complaint to the Office for Civil Rights.

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We'll post updated guidance when the expanded FAQs are released, and you can also sign up for updates directly from the Office. If you have questions about the impact of the ordinance on your organization, please contact the Foster Pepper [Employment & Labor](#) group.

For more information about Foster Pepper or to register for other firm communications, visit www.foster.com.

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