



## Sample for Employers

### Paid Sick and Safe Time (PSST) Model Policy

*Note to employers: The Seattle Office of Labor Standards (OLS) created this model policy as an example of the information that should be in a complete PSST policy. Seattle Municipal Code Chapter 14.16.045(C) requires employers to provide each employee with written notice of the employer's policy and procedure for meeting the law's requirements. This policy also satisfies the employer's obligation to provide a sick leave policy under Washington State's paid sick leave law, RCW 49.46.200-.210. Employers may edit and personalize this policy according to their practices and size, so long as it meets ordinance requirements.*

#### **Section I - Purpose of the PSST Ordinance; about PSST**

Seattle's Paid Sick and Safe Time (PSST) Ordinance, [SMC 14.16](#) requires employers to provide their employees working in Seattle with paid leave for work absences due to a physical or mental health condition or a critical safety issue. Employees have a right to use paid sick and safe time for:

- Sick Time: An employee's personal illness, injury or health condition or medical appointment, or to take care of a family member with an illness, injury, or medical appointment (Sick Time);
- Safe Time: For reasons related to domestic violence, sexual assault, or stalking for the employee or a family or household member;
- Safe Time: Closure of the employee's family member's school/place of care;
- Safe Time: Closure of the employee's place of business by order of a public official for health reasons; and
- Safe Time: Reduction in hours or closure of the employee's place of business for health or safety related reasons (employers with 250 or more full-time equivalent employees only).

For paid sick and for paid safe time, "family member" includes the following individuals, without regard to age, a spouse, registered domestic partner, child, stepchild, foster child, sibling, parent, grandparent, grandchild, and parent-in-law. Please see SMC 14.16.010 for the full list.

For paid safe time uses related to domestic violence, sexual assault, or stalking, "household member" includes child, stepchild, foster child, sibling, parent, stepparents, stepchildren, grandparents, grandchildren, current and former spouses and domestic partners, persons who have a child in common, adult persons related by blood or marriage, adult persons who have resided or are residing together, and persons 16 years of age or older who are or were residing together and who are or were in a dating relationship. Please see SMC 14.16.010 for the full list.

#### **Section II - Eligible employees**

Employers are required to provide paid sick and safe time for all employees working in Seattle, including full time, part time, temporary, and seasonal employees, regardless of overtime exempt status.

### **Section III - Tier size; rate of accrual, use and carry over;<sup>1</sup> employer's choice of year**

The amount of PSST hours that employees accrue depends on how many full-time equivalent employees work for the employer worldwide. This employer is a **[insert Tier size]** employer, with the following accrual and carry over **[insert accrual and carry over language]**.<sup>2</sup> PSST hours are accrued based on a 12-month year.<sup>3</sup> This employer's year begins **[insert date]** and ends **[insert date]**. There is no cap on accrual or use of PSST hours; the only cap is on carry over of unused PSST hours to the following year.

*Optional Paid Time Off (PTO Policy) for combined or universal leave: Only include PTO policy language if you allow employees to use vacation/PTO for PSST purposes. If the employer provides different plans based on employee classification, describe the specifics of each plan.*

Employees can use accrued Paid Time Off (PTO), as well as paid vacation leave, for absences covered by Seattle's PSST ordinance, SMC 14.16 (as described in Section I). This employer is a **[insert Tier size]** employer, with the following accrual and carry over **[insert accrual and carry over language]**.<sup>4</sup> PTO hours are accrued based on a 12-month year. This employer's year begins **[insert date]** and ends **[insert date]**. There is no cap on accrual or use of PTO hours; the only cap is on carry over of unused PTO hours to the following year. Requests to use PTO for PSST purposes are subject to the reasonable notice and verification provisions in Section VI and VII. Requests to use PTO for non-PSST purposes are subject to the following reasonable notice and/or verification procedures **[insert reasonable notice or verification requirements, if imposed]**. If an employee chooses to use all the employee's accrued PTO for non-PSST purposes, the employer is under no obligation to provide additional PTO.

### **Section IV – Method of notification of PSST balance**

Each time wages are paid, employers are required to notify employees of (1) total available paid sick and safe time; (2) paid sick and safe time accrued since the last notification; and (3) paid sick and safe time used since the last notification. This employer **[insert timing and method of notification, e.g. information from the employee's pay stub]**.

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<sup>1</sup> **More generous policy:** An employer may choose to offer more generous rates of accrual and/or carry over than the minimum amounts required by the PSST Ordinance.

<sup>2</sup> **Tier sizes**

- **Tier One employers (at least 1 employee and up to 49 FTEs):** Employees accrue 1 hour of PSST for every 40 hours worked in Seattle. Employees can carry over up to 40 hours of unused PSST to the following year.
- **Tier Two employers (50 to 249 FTEs):** Employees accrue 1 hour of PSST for every 40 hours worked in Seattle. Employees can carry over up to 56 hours of unused PSST to the following year.
- **Tier Three employer (250 or more FTEs):** Employees accrue 1 hour of PSST for every 30 hours worked in Seattle. Employees can carry over up to 72 hours of unused PSST to the following year.
- **Tier Three employer (250 or more FTEs) with PTO:** Employees accrue 1 hour of PSST for every 30 hours worked in Seattle. Employees can carry over up to 108 hours of unused PSST to the following year.

<sup>3</sup> **Employer's choice of year:** The employer must notify employees if it is using a period other than the calendar year for PSST accrual and carry over (e.g. tax year, fiscal year, contract year, or the year running from an employee's hire date).

<sup>4</sup> Tier 3 employers must permit employees to carry over up to 108 hours of unused paid time off (PTO) to the following year.

## Section V - Using PSST Hours and Rate of Pay

An employer may impose a waiting period of up to 90 days after an employee commences employment before that employee can use any accrued PSST hours. This employer **[does not require a waiting period or imposes a waiting period of XXX days before a new employee can use any accrued PSST hours.]** Employees may use PSST in increments of **[insert time increment]**.

- **Hourly, non-overtime exempt employees:** Employers must permit use of PSST in whichever is the smaller amount – either hourly increments or the smallest increment in which time is tracked for compensation purposes. (e.g. if the employer tracks time in one-minute increments for compensation, the employer must permit use of PSST in one-minute increments).
- **Overtime exempt employees:** Employers may make deductions of PSST in accordance with state and federal law.

When using PSST, employees will be paid their normal hourly compensation (i.e. the rate that they would have earned if they had shown up for work). Employees are also entitled to lost commissions based on a 90-day lookback period.

## Section VI - Reasonable notice requirements for requesting PSST

To request PSST, an employee must follow the employer's notice procedure for absences, including marking the timesheet accordingly. The employee does not have to ask specifically for PSST or disclose the nature of an illness or the specific reason related to a critical safety issue, but the employee must give the employer enough information to understand that the absence is for a PSST-qualifying reason. The employer will maintain the confidentiality of information provided by the employee or others regarding an employee's request for PSST.

- If the employee's need for PSST is foreseeable (e.g. doctor appointment), the employee must make a written request to **[insert point of contact]** at least 10 days, or as soon as practicable, before the date of use.
- If the need for PSST is not foreseeable (e.g. unexpected illness), the employee must follow the call-out procedure **[insert procedure, including point of contact, method of communication]**. If circumstances prevent an employee from following the call-out procedure, an employee must provide notice as soon as practicable.
- If the reason for the absence involves domestic violence, sexual assault, or stalking, the employee must provide oral or written notice no later than the end of the first day of using PSST.

## Section VII – Verification requests from employer

*Note to employers: Only include a section on verification if it is part of your policy or practice. Verification requirements are allowed by the ordinance, but not required.*

*Also, employers that do not offer medical benefits to employees must pay half the cost of obtaining the verification.*

If an employee has used PSST for an authorized purpose for more than three (3) consecutive days during which the employee is required to work, the employee must provide verification that establishes or confirms that the use of PSST is for an authorized purpose.

If the employer requests documentation that accrued PSST hours are being used for a reason that is covered by the law, the employee is not required to disclose the nature of the illness or other specific reason for the absence. The employer will maintain the confidentiality of information provided by the employee or others in support of an employee's request for PSST.

- For sick time acceptable verification may include:
  - A health care provider's signed statement indicating that the use of paid sick leave is for care of the employee or their family member for an authorized purpose; or
  - **[insert other types of documentation demonstrating that the employee's use of paid sick leave is for care of the employee or their family member for an authorized purpose].**
- For safe time related to domestic violence, sexual assault, or stalking: The supporting documentation must indicate that the employee or a family or household member is experiencing domestic violence, sexual assault, or stalking, and that the leave was taken for a purpose covered by the law. This could include
  - A written statement by the employee;
  - A police report;
  - A court order;
  - Evidence from a court or prosecuting attorney;
  - Documentation from any of the following persons from whom an employee or an employee's family or household member sought assistance in addressing the domestic violence situation indicating that the employee or the employee's family or household member is a survivor of domestic violence, sexual assault, or stalking:
    - An advocate;
    - An attorney;
    - A member of the clergy; or
    - A medical or other professional.
  - **[insert other types of documentation that the employee or the employee's family member is experiencing domestic violence, sexual assault, or stalking].**
- For safe time related to closure of a family member's school or place of care: the employee may provide the notice of closure the employee received.

*Note to employers: the "unreasonable burden" procedures described below are required by WAC 296-128-660 for employees subject to the Washington Minimum Wage Act, RCW 49.46.*

If an employee believes that obtaining verification for use of paid sick or safe leave would result in an unreasonable burden or expense on the employee, the employee must contact **[insert point of contact]** orally or in writing. The employee must indicate that the absence is for an authorized purpose, and explain why verification would result in an unreasonable burden or expense on the employee.

Within 10 calendar days of receiving the employee's request, **[insert point of contact]** will work with the employee to identify an alternative verification method that does not result in an unreasonable burden or expense. Options may include, but are not limited to:

- Accepting the previously submitted oral or written statement;
- Company-provided transportation; or
- Sharing more of the cost of getting a signed statement from a health care provider.

The employer may choose not to pay an employee for paid sick and safe leave taken for such absences until verification is provided. An employee has the right to contact **[insert point of contact]** if the employee believes the proposed alternative still results in an unreasonable burden or expense. If an employee is not satisfied with the employer's alternatives, the employee may contact the Seattle Office of Labor Standards or the Washington State Department of Labor & Industries.<sup>5</sup>

### **Section VIII – Frontloading**

*Note to employers: Only include a section on frontloading if it is part of your policy or practice.*

The employer will provide each employee with notice of the amount of PSST hours that will be placed into the employee's PSST account and the specific date. The notice will include the calculations used to determine the frontloaded hours, the PSST accrual year, and the employee's eligibility details.

Unused frontloaded PSST balances must be carried over to the following year commensurate with the carry over requirements of the employer's tier size.

If an employee's frontloaded PSST is less than the amount that they were entitled to accrue, the employer will make any additional amounts of PSST available for use by the employee as soon as practicable, but no later than 30 days after the discrepancy is identified. If an employee uses more PSST than the employee would have otherwise accrued absent frontloading, the employer will not seek reimbursement from the employee for such PSST.

### **Section IX – Shared Leave Program**

*Note to employers: Only include a section on shared leave programs if it is part of your policy or practice.*

The shared PSST program provides employees the opportunity to receive and use donated PSST, and to donate their PSST to other employees. Employees must apply to receive/donate shared PSST through **[insert point of contact]**. An employee is eligible to apply for and use shared PSST **[immediately / after X days after the start of employment]**.

To participate in the shared PSST program, the employee must **[insert employer procedure (e.g. complete the Employee Request to Receive Shared Paid Sick and Safe Leave form or complete the Employee Request to Donate Paid Sick and Safe Leave form)]** and provide the form to **[insert point of contact]**.

Donated PSST will be recorded as if the donating employee had used the paid leave, and will reduce the donating employee's available balance of PSST hours.

### **Section X - Separation from employment**

If an employee separates from employment and the employer rehires the employee within twelve months, the employer must reinstate the employee's PSST balance as of the date of separation.

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<sup>5</sup> The Washington State Department of Labor & Industries only investigates claims by employees covered by the Washington Minimum Wage Act, RCW 49.46.

**Option to insert cash-out provision:** The PSST ordinance neither requires nor prohibits cash-out of unused PSST hours. An employer may choose to offer cash-out of unused PSST balances in excess of the carry over requirement at the end of the employer’s designated 12-month period for accrual and carry over, or upon separation from employment. If an employee chooses not to accept a cash-out offer, any unused PSST hours remain available to the employee if the employee returns to work with that employer within 12 months of separation.

#### **Section XI - Retaliation prohibited**

Any discrimination or retaliation against an employee for good faith assertion of PSST rights is against the law. An employer may not require, as a condition of an employee taking PSST, that the employee search for or find a replacement worker to cover the hours during which the employee is on paid sick or safe leave. An employer may not apply an absence control policy to PSST-covered absences.

#### **Section XII – PSST questions**

Employees with questions about PSST benefits may contact **[Insert employer’s name and contact information]**.

The Seattle Office of Labor Standards (OLS) is responsible for enforcing the Paid Sick and Safe Time ordinance and ensuring that employees are not retaliated against for using PSST. An employee who experiences a violation of PSST rights may file a complaint with OLS or file a lawsuit. OLS also provides free technical assistance, brochures, posters, and other resources. For more information from OLS, call 206-256-5297 or visit <http://www.seattle.gov/laborstandards/ordinances/paid-sick-and-safe-time>.