

Comparison Chart (Temporary Gig Worker PSST and Permanent App-based Worker PSST)

- Ordinance 126091, Temporary Paid Sick and Safe Time (PSST) for Gig Workers
- SMC 8.39, App-Based Worker Paid Sick and Safe Time (PSST)

Item	Topic	Ordinance 126091 (Gig Workers – COVID-19 Emergency)	Ordinance 126788 – SMC 8.39 (App-Based Workers)
1	Coverage: Company type	<p>“Hiring entities”</p> <ul style="list-style-type: none"> • Food Delivery Network Companies (FDNCs) • Transportation Network Companies (TNCs) 	<p>“Network companies”</p> <ul style="list-style-type: none"> • Expands coverage to align with the App-Based Worker Minimum Payment Ordinance, SMC 8.37 (i.e., on-demand network companies and some network companies offering pre-scheduled services; not marketplace network companies). Covered companies are referred to as “network companies” rather than “hiring entities.” • Removes TNCs due to state preemption under ESHB 2076. <p>The expanded coverage for all Network Companies begins on Jan. 13, 2024. Until that date, the ordinance covers only Food Delivery Network Companies.</p>
2	Coverage: Company size	Hiring entities with 250 or more gig workers worldwide	<p>Network companies with 250+ app-based workers worldwide</p> <ul style="list-style-type: none"> • Clarifies inclusion of chains, integrated enterprises, and franchises for the purpose of calculating size of workforce. • Adds provision to clarify requirement for counting app-based workers in the event of a network company acquisition or merger (i.e., requirement to count all app-based workers for successor company during first 90 days of current calendar year).
3	Coverage: Workers	<p>“Gig workers”</p> <ul style="list-style-type: none"> • Food Delivery Network Company (FDNC) workers • Transportation Network Company (TNC) drivers 	<p>“App-based workers”</p> <ul style="list-style-type: none"> • Until Jan. 13, 2024, law covers app-based workers working for FDNCs.

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			<ul style="list-style-type: none"> Beginning on Jan. 13, 2024, expands coverage to all app-based workers performing work in Seattle that is facilitated by “network companies,” described above. Covered workers are referred to as “app-based workers” rather than gig workers.
4	Accrual	At least one day of PSST for every 30 days worked	<p>At least one day of PSST for every 30 days worked</p> <ul style="list-style-type: none"> Requires app-based worker’s retention of any PSST accrued under GW PSST Ordinance. Removes outdated accrual requirements under GW PSST (e.g., requirement for network company to choose accrual method for app-based workers performing services before July 2020).
5	Use: Systems for administering PSST	<p>Requires an “accessible system,” via smartphone application or online web portal, for gig workers to <i>request and use</i> PSST.</p> <p>Hiring entities must provide gig workers with written notifications regarding current compensation rates for and available amounts of PSST no less than monthly.</p>	<p>Requires an “accessible system,” via smartphone application or online web portal, for gig workers to <i>understand, request, and use</i> PSST.</p> <ul style="list-style-type: none"> Adds provision that Office of Labor Standards (OLS) Director may issue rules defining reasonable requirements for the “accessible system.” Such requirements include a notice of rights, clear instructions and procedures, timely responses to app-based worker requests to use PSST, ongoing access to PSST information (e.g., accrual, use, and rate of average daily compensation), and transparent information on days worked and earnings to show the basis for calculating PSST information. Any rules issued by the Director would go into effect no earlier than January 13, 2024. <p>Network companies must provide app-based workers with written notifications regarding current compensation rates for and available amounts of PSST no less than monthly.</p> <ul style="list-style-type: none"> If a network company uses the “accessible system” to communicate its notifications regarding available PSST, it must affirmatively inform app-based workers where and how to access the information.

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6	Use: Availability	Requires accrued PSST to be made available for use no more than one week after accrual.	<ul style="list-style-type: none"> The Director may issue rules regarding affirmative notification through the accessible system. Requires network companies to make accrued PSST available for use <i>as soon as practicable</i> and no more than one week after accrual.
7	Use: Requests to use PSST	Requires gig workers to request PSST in advance of use (i.e., workers cannot request retroactive use of PSST). Hiring entities may require that gig workers provide reasonable verification of an authorized purpose for more than three consecutive days of PSST. <ul style="list-style-type: none"> Hiring entities were not permitted to require verification of sick time from a health care provider during the COVID-19 state of emergency. 	App-based workers may request PSST <i>as soon as practicable</i> , creating flexibility for when workers cannot request PSST in advance because they are incapacitated or the leave is unforeseeable. Network companies may require that gig workers provide reasonable verification of an authorized purpose for more than three consecutive days of PSST. <ul style="list-style-type: none"> Adds explicit prohibition against requests for verification before an app-based worker has used more than three consecutive days of PSST.
8	Rate of Pay	Requires payment of the gig worker’s average daily compensation, calculated as follows: <ul style="list-style-type: none"> The average amount of compensation (including, but not limited to, payments for providing services, bonuses, commissions, tips) for each “day worked” in the highest earning calendar month since October 2019 or since commencing work for the hiring entity, whichever date is later. “Days worked” are days that a gig worker performs work in Seattle. Includes work performed inside Seattle and outside Seattle on “days worked.” Average daily compensation must be recalculated every calendar month.	Revises calculation for the app-based worker’s average daily compensation: <ul style="list-style-type: none"> The average amount of compensation (including, but not limited to, payments for providing services, bonuses, commissions, incentives) is for each “day worked” during a lookback period of the preceding 12 months. Reduces the lookback period from October 2019 to the preceding 12 months. The average amount of compensation is calculated based on all “days worked” during the preceding 12 months, rather than days worked during the highest earning month. Excludes tips beginning January 13, 2024. Explicitly includes (and defines) “incentives” and includes compensation for time spent in training. Average daily compensation must be recalculated every calendar month.

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9	Notice of rights	<p>A hiring entity must provide each app-based worker with a notice of rights by the effective date of the ordinance.</p> <p>OLS may create a model notice of rights, but hiring entities are responsible for providing a sufficient notice regardless of whether OLS does so.</p>	<p>Establishes deadlines for when network companies must provide app-based workers with a notice of rights.</p> <ul style="list-style-type: none"> • Existing workers – provide notice by May 30, 2023. • New workers hired after May 1, 2023 – provide notice before start date. • All workers – provide notice of rights on annual basis. <p>Outlines new authorities for OLS:</p> <ul style="list-style-type: none"> • OLS may create a model notice of rights. When OLS creates a notice, network companies must provide it to app-based workers. The current notice is available on the OLS website: App-Based Worker Paid Sick and Safe Time (seattle.gov). • The Director may issue rules requiring the network company to file its notice of rights with OLS. • If a network company uses its “accessible system” (described above, section 5) to communicate its notice of rights, it must affirmatively inform app-based workers where and how to access the information, and the Director may issue rules regarding affirmative notification through the accessible system. • The Director may issue rules governing the form and content of the notice of rights, the manner of its distribution, and required languages for its translation.