



East Meets West: Spokane Joins Western Washington Cities By Adopting Paid Sick Leave Law

Insights

1.14.16

Effective January 1, 2017, Spokane will join Seattle, Sea-Tac, and Tacoma as cities in Washington requiring employers to provide mandatory employee paid sick and safe leave. On Monday, January 11, 2016, Spokane's City Council passed Ordinance No. C-35300, which provides the basic structure for a paid sick leave law that will go into effect next year.

Because the Ordinance passed with near unanimous support (by a 6-1 vote), it should survive the Mayor's expected veto. The City will not issue a final version of the bill until after the legislative process is complete, but a source present at the City Council meeting states that the final bill largely tracks the draft proposal attached to the Council's agenda. Here are some of the basics from the draft bill:

Applicability. The Ordinance applies to "all Employers in the City of Spokane" that employ workers who physically perform at least 240 hours of their work within Spokane's city limits. Excluded from paid leave requirements are temporary workers, independent contractors, students in work-study programs, newly licensed businesses, and firms engaged in "construction work" as defined elsewhere under state law.

Qualifying Uses & Documentation. Employers will be able to require that new employees wait 90 days before they can begin using their paid leave. Similar to Tacoma's law, employees can use this paid leave for their own sick time, to care for a sick family member, to seek treatment or safety from domestic violence, because of public closures, or for bereavement in connection with the death of a family member. Seattle's law has similar use requirements, but it does not include bereavement as a protected use. Unlike Tacoma, but similar to Seattle, Spokane employers can require employees to provide reasonable documentation if they take three or more consecutive days of paid leave.

Employee Accrual, Use, and Carry Over. The accrual, carry over, and waiting requirements apply to all employers, regardless of their size. The maximum-use requirements, however, do differ:

Employer Size	Accrual Rate	Lowest Maximum Annual Use	Minimum Carry Over to Next Calendar Year
Under 10 employees	1 hour every 30 hours worked	24 hours	24 hours
10 or more	1 hour every 30 hours	40 hours	24 hours

employees worked

The paid leave rate must be the same rate of pay that the employee would have otherwise earned, including benefits. Employers are not, however, required to pay for the loss of tips or commissions.

Notice and posting. The City will provide a model poster that employers will have to display in a commonly accessible area, advising the employees of their rights under the law, including the right to be free of employer retaliation. In addition, employees can request to review their leave accrual and use once a quarter.

Record Retention. Employers must maintain records of their employees' used and accrued paid leave for a minimum of three years.

Business License Renewals. Following in Tacoma's footsteps, Spokane will require businesses to certify their compliance with this Ordinance when renewing or registering for a business license.

Enforcement. The Ordinance will be enforced by the City of Spokane. The City will release a full set of procedures for enforcement no later than October 1, 2016. It appears that the City intends to impose civil penalties for noncompliance. Unlike the recent changes in Seattle, the Ordinance will not give employees a private right of action for violations of this law.

Things to Come? Spokane's Ordinance is generally much less detailed than the other Washington cities' laws, leaving common questions unresolved. This includes whether the Ordinance applies to non-Spokane businesses with employees who perform work in Spokane, and how to properly calculate the rate of pay for commission-based, piece-rate, and fluctuating-rate workers. We expect the City will provide some clarification before the new law's 2017 effective date.

If you have any questions about this Ordinance, or how it may affect your business, please contact your Fisher Phillips attorney or one of the attorneys in our Seattle office at 206.682.2308.

This Legal Alert provides an overview of a specific new Spokane law. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

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