

August 28, 2012

Seattle Mandates *Paid* Leave For Employees

Employers are accustomed to providing *unpaid* leave to certain employees under the Family and Medical Leave Act ("FMLA"). As of September 1, 2012, the City of Seattle joins a growing number of states and municipalities (including San Francisco and the District of Columbia) that mandate *paid* leave for certain absences. Beyond mandating paid leave, Seattle's new Paid Sick Time and Safe Time Ordinance (the "PSST Ordinance") also allows employees to take leave in situations that would not otherwise be covered by the FMLA.

Covered Employers. Any employer, regardless of size, with 1 or more employees in Seattle is covered by the PSST Ordinance (including the recordkeeping and posting requirements). However, only employers that have 5 or more "full-time equivalent employees" (in *any* city or state) *and* have at least 1 employee who performs work within the City of Seattle are required to provide paid leave to covered employees.

Covered Employees. An employee is covered if the employee is full-time, part-time, temporary, or works on an "occasional basis" in Seattle. Importantly, the PSST Ordinance has broader, and more inclusive, eligibility requirements than the FMLA. For example, the PSST Ordinance does not include a "worksite" requirement similar to that found in the FMLA.

Paid Leave Entitlement. On September 1, 2012, employees begin accruing paid leave under the PSST Ordinance. The amount of leave that can be accrued and the rate of accrual vary based upon the size of the employer. For the largest class of employers (those with 250 or more employees), employees accrue 1 hour for every 30 hours worked and can accumulate 72 hours of paid leave per year. Employees can use their accrued *paid* leave for:

- Sick Leave – this covers absences (1) resulting from an employee's mental or physical illness, injury or health condition; (2) to accommodate the employee's need for medical diagnosis care or treatment of a mental or physical illness, injury or health condition; or (3) to allow an employee to obtain "preventative medical care." In addition, "sick leave" can also be taken to allow an employee to provide care of a family member for any of the above reasons.
- Safe Leave – this includes absences to avoid exposure to hazardous materials or for a variety of leaves related to domestic violence, sexual assault or stalking.

Other Requirements. Beyond providing paid leave to covered employees, all employers need to comply with other requirements under the PSST Ordinance, including:

- Notifying employees of their rights under the PSST Ordinance via postings and modifications to Employee Handbooks;
- Informing employees in writing of their accrued paid leave “each time wages are paid;” and
- Keeping records of each covered employee’s hours worked, accrued paid leave and used paid leave.

In addition, the PSST Ordinance prohibits an employer from requesting medical documentation substantiating the reason for the leave, unless the employee seeks paid leave of more than 3 consecutive days under the PSST Ordinance.

Enforcement. Seattle's Office for Civil Rights is charged with enforcing the PSST Ordinance and can assess damages and seek other remedies. In addition, the PSST Ordinance allows for a private right of action and includes an anti-retaliation provision.

Contact Information. For more information on how to comply with Seattle’s new PSST Ordinance, please contact Doug Towns (404.888.8852) or Jessica Gallegos (404.888.8849).

IRS Circular 230 Notice: To ensure compliance with requirements of U.S. Treasury regulations, we inform you that any tax advice contained in this newsletter is not intended to be used, and cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code or promoting, marketing or recommending to another party any transaction or matter addressed herein.

999 Peachtree Street • Suite 1500 • Atlanta, GA 30309
www.mazconlaw.com • 404.888.8820