



City of Spokane Earned Sick and Safe Leave Frequently-Asked Questions

1. What is sick leave?

Sick leave is paid time an employee can take off work in order to seek medical treatment or a diagnosis for themselves or their family members. This can be for emergency or routine medical treatment.

2. What is safe leave?

Safe leave is paid time an employee can take off work to take care of issues related to domestic violence, harassment, or stalking. Safe leave can be used to find emergency housing, to seek legal advice or appear at court hearings, or to seek counseling related to domestic violence, harassment, or stalking.

3. When will this law take effect?

The earned sick and safe leave ordinance will be in effect for most employers in Spokane beginning on January 1, 2017. New businesses which start up during 2017 will have an additional year from the date they get their first business registration in Spokane.

Example 1:

Start-up Company A gets its business license on June 1, 2017. Until May 31, 2018, Company A is not required to comply with the City of Spokane's earned sick and safe leave ordinance.

4. Who is entitled to earned sick and safe leave ("ESSL") under the ordinance?

For a worker to be eligible for ESSL, he or she must be employed within the Spokane city limits for an employer which has a physical location within Spokane.

Example 2:

Company B has one store, located in Spokane Valley, Washington. Its employees are not covered by the ordinance and Company B is not required to provide earned sick and safe leave to its employees.



5. Which “employers” are covered by the ESSL ordinance?

The ESSL ordinance applies to all employers in the City of Spokane with one or more employees who physically perform more than 240 hours of work within the City, unless the employer is otherwise excluded by the ordinance.

6. Which employers are excluded from coverage?

Employees of the federal, state, and local governments, seasonal workers, independent contractors, work-study-students, domestic workers (such as nannies), and construction workers are exempt from the ordinance. Also, businesses owned and operated by one person (or one person and his or her spouse) are not covered by the ordinance.

7. What are some examples of excluded “construction work” under WAC 296-155-012?

“Construction work” is defined in the same way as that term is defined in Washington state law and includes activities like:

- excavation, construction, erection, alteration, repair, demolition, and dismantling, of buildings and other structures
- excavation, construction, alteration and repair of sewers, trenches, caissons, conduits, pipe lines, roads
- the moving of buildings and other structures, and
- the construction, alteration, repair, or removal of wharfs, docks, bridges, culverts, trestles, piers, abutments

8. Which workers are covered?

Most employees who physically perform work within the City of Spokane for compensation for an employer located in the city of Spokane are covered. Exceptions are seasonal workers, independent contractors, and domestic workers.

9. What about part-time employees?

Part-time employees are entitled to sick and safe leave under the ordinance. However, because of the accrual rule, part-time workers may take longer to accrue significant amounts of leave.

Example 3:

Employee 1 is employed by Company C, and works part-time 15 hours per week. Employee 1 accrues sick and safe leave at the rate of 1 hour for every thirty hours worked. Employee 1 will earn 2 hours of sick and safe leave each month.



Example 4:

Employee 2 is employed by Company D, a temp agency. Employee 2 works 15 hours per week at one location and 15 hours per week at another location. However, because Employee 2 works 30 hours per week for Company D, Employee 2 earns 4 hours of sick and safe leave each month. Employee 2 works for the temp agency, not for the businesses with which the temp agency has a contract.

10. Is an employer covered if it does not have a physical location in the City of Spokane, but the employees may travel for work within the City?

No. The ordinance only applies to employers which have a permanent location in the city of Spokane.

Example 5:

Company E is based in Airway Heights, Washington, has no permanent location in Spokane, and its employees frequently travel into Spokane to make deliveries and pickups. Company E is not subject to the earned sick and safe leave ordinance.

Example 6:

Company F is based in Missoula, Montana, and sends six employees to Spokane for a one-week work-related conference, with pay. Other than that trip, Company F does not do business in Spokane. Company F is not covered by the earned sick and safe leave ordinance.

Example 7:

Company G has its headquarters in Spokane and a field office in Moses Lake, Washington. Employee 3 is based in the Moses Lake office and travels to Spokane for a mandatory one-week training each year. That one week training is Employee 3's only work in Spokane each year. Although Company G has a location in Spokane and Employee 3 works in Spokane, Company G does not have to provide earned sick and safe leave for Employee 3 because Employee 3 works in Spokane less than 240 hours in any given year.



11. How much earned sick and safe leave time will employees earn?

Starting on January 1, 2017, each employee who is covered by the ordinance will earn 1 hour of paid leave for every 30 hours he or she works.

Example 8:

Employee 4 works 30 hours per week for Employer F, for a total of 120 hours per month. Employee 4 therefore earns 4 hours of sick and safe leave each month.

12. Can an employer require an employee to wait before accruing or using leave?

The ordinance distinguishes between accrual (earning leave) and using leave. While leave hours begin to accrue on the employee's first day on the job, employers can have a probationary period (no more than 90 days) within which employees cannot use leave.

13. How much earned sick and safe leave can employees use under the law?

The answer depends on how many employees the company has. Employees of companies with less than 10 employees can use 24 hours of earned sick and safe leave in a year. Employees of companies with 10 or more employees can use 40 hours of earned sick and safe leave in a year. Employers can create more generous policies, so that their employees can use more sick and safe leave than the minimum required by the ordinance.

14. When does the year start and end, for purposes of this ordinance?

Each employer can determine what their year is, as long as it is a 12-month period used for wages and benefits. Some employers will use calendar year, some will have a different fiscal year, and some will use the employer's hire date or anniversary.

15. If an employee does not use all of her earned sick and safe leave hours in a year, can she roll those unused hours over into the next year?

Yes – if an employee does not use all her hours of earned sick and safe leave in a given year, she can “roll over” the unused hours into the next year, up to the use amount (24 hours for employers with fewer than 10 employees; 40 hours for employers with 10 and more employees). Employers can also allow employees to donate unused leave hours to other employees who may need more paid leave for emergencies or chronic medical conditions. However, bear in mind that if your employer only allows you to use 24 hours (or 40 hours, if you work for a company with 10 or more employees), that limit still applies in each year, regardless of how many hours you roll over.



16. Do employees earn leave hours for work outside the city of Spokane?

No. Hours worked outside the city of Spokane do not count toward leave for earned sick and safe leave, although an employer may choose to do so.

17. What about employees who are exempt from overtime under state minimum wage laws and/or the federal Fair Labor Standards Act (FLSA)?

The ordinance does not require employers to track hours or accrue earned sick and safe leave hours for employees who are exempt from overtime for hours worked beyond a 40-hour work week. If an exempt employee's normal work week is 40 hours or more, leave hours will still accrue based on a 40-hour week. Likewise, if an exempt employee's normal work week is fewer than 40 hours, the employee accrues based on the length of her normal work week.

18. How will this law be enforced?

The earned sick and safe leave ordinance will be enforced based upon complaints the City receives. City staff will investigate and communicate with the employer to determine if there was a violation. From January 1, 2017 to December 31, 2017, the City will focus its efforts on communication and outreach to employers and employees, and helping employers create policies that comply with the City's law.

19. If my employer does not allow me to take earned sick and safe leave, can I go to court?

No, individuals are not permitted under this ordinance to sue their employers to seek enforcement of the earned sick and safe leave ordinance. If you believe that your employer is not following the law, you should file a written complaint with the City of Spokane's Contracts Compliance Office. Their phone number is (509) 755-CITY (2489), complaint forms can be found online at <https://my.spokanecity.org/business/doing-business/earned-sick-and-safe-leave/>, and for more information, you can send an email to paidleave@spokanecity.org. The City will investigate and take appropriate action needed, to remedy a violation.

20. Can I "cash out" unused leave time?

The law does not require employers to "cash out" unused leave time for employees upon separation from employment. However, any employer can create a more generous policy and allow cash-out of leave time, a faster accrual rate, the use of more hours than the minimum required, and other more generous policies.



21. If an employer offers all-purpose “paid time off” (“PTO”), does the employer also have to provide sick and safe leave in addition to PTO?

No. If the employer allows employees to use PTO for all the same reasons as earned sick and safe leave can be used, and in the same amount, the employer’s PTO policy complies with the earned sick and safe leave ordinance.

Example 9:

Employer H has a PTO policy under which each employee earns 40 hours of PTO every year, with no restrictions on the reason for use of PTO (such as vacation, personal time, sick time, caring for an elderly parent, etc). Employer H’s policy fully complies with the City’s ordinance, and Employer H does not have to create another form of leave in order to comply. This is true even if the accrual rate ends up being less than 1 hour for every 30 hours worked.

22. May employers “front-load” or provide a “bank” of leave time in lieu of hourly accrual?

Yes, the ordinance does not prohibit employers from providing the required 24 or 40 hours (depending on employer size) of leave time in advance of accrual, such as by “front-loading” leave hours at the beginning of the year.

23. If an employer front-loads hours, is carryover still required?

No, if the employer elects to front-load hours, the employer need not carry over unused hours from one year to the next.

24. Will the City come in and audit an employer’s books?

The City requires that each employer go online to <https://my.spokanecity.org/business/doing-business/earned-sick-and-safe-leave/> and file an annual certification that it is providing earned sick and safe leave, if it is covered by the ordinance, in line with the requirements of the ordinance. Only if there is a complaint will the City engage with the employer. Note that each employer must post the workplace poster notifying employees of their right to earned sick and safe leave and each employer must retain records of leave for its employees for three years.

25. What about the new paid sick leave initiative which just passed – I-1433? What effect does that have on the City’s law?

The new state law on paid sick leave starts on January 1, 2018. The City’s ordinance will start on January 1, 2017 and will “sunset” (no longer be in effect) on either December 31, 2017 or on the date the State of Washington implements I-1433, whichever occurs later. So, if a lawsuit delays the implementation of I-1433 at the state level, the City’s ordinance will remain in effect until the legal challenge is resolved.