

# Non-Profit Institute

Sponsored by Community Foundation NCW

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# Initiative 1433

- New minimum wage (\$11.00/hour, annual increases)
  - \$11.50 in 2018
  - \$12.00 in 2019
  - \$13.50 in 2020
- After 2020, increases will be tied to inflation rates
- Requires employers to provide paid sick leave for all employees

# Initiative 1433 - New Regulations

## RCW 49.46.210 and WAC 296.128.160

• Accrual of at least one (1) hour of paid sick leave for every 40 hours worked

- All employees
- Effective January 1, 2018
- Employees' illness/injury, including diagnosis
- Care for a family member
- When employee's child's school/place of care is closed for health reasons
- Domestic leave

# Initiative 1433 - New Regulations

## RCW 49.46.210 and WAC 296.128.160

- Note:

- Includes all regular and overtime hours
  - Not limited to 40 hours in a work week
  - Cannot be capped
- 
- Must allow for carryover of up to 40 hours of unused, accrued leave
- 
- Not required to allow accrual for hours paid when not working (vacation, PTO, holiday)

# Usage (WAC 296-128-620)

- An absence resulting from an employee's mental or physical illness, injury, or health condition; to accommodate the employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or an employee's need for preventive medical care.

# Usage (WAC 296-128-620) - continued

- To allow the employee to provide care for a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or care for a family member who needs preventive medical care;

# Usage (WAC 296-128-620) - continued

- When the employee's place of business has been closed by order of a public official for any health related reason, or when an employee's child's school or place of care has been closed for such a reason
- for absences that qualify for leave under the domestic violence leave act,...

# Initiative 1433

- Entitled to use beginning 90<sup>th</sup> calendar (not business) days after beginning work
- Must allow use in at least one hour increments (can be less), unless employer can establish “undue hardship”



# WAC 296-128-620 - Usage.

- Factors to consider in determining whether the use of paid sick leave in one-hour increments imposes an undue hardship on the employer include but are not limited to:
  - The number of persons employed or working at the particular worksite and their qualifications or ability to timely relieve the employee using paid sick leave given the employer's operations;
  - The total number of persons employed by the employer;
  - The number, type and geographic separateness of the employer's worksites; and

# WAC 296-128-620 - Usage continued

- The effect of providing paid sick leave in one-hour increments on worksite operations involving: the startup or shutdown of machinery in continuous-operation industrial processes; intermittent and unpredictable workflow not in the control of the employer or employee; the perishable nature of materials used on the job; the perishable or live nature of products being harvested or processed; the time-sensitive or high-volume nature of the employer's operations, if such operations have a direct impact on the public; and the safety and health of other employees, patients, clients or the public.

# WAC 296-128-620 - Usage continued

- If an employer requires employees to use paid sick leave in more than one-hour increments, the employer must have a written policy or collective bargaining agreement which outlines the rules for increments of use, and provides the employer's rationale for the existence of an undue hardship.
- An employer must make this information readily available to all employees.

# Reasonable Notice - WAC 296-128-630

- If foreseeable, can require notice of at least 7, but not more than 14 days in advance
- If unforeseeable, employee must give notice as soon as practical, but no later than end of 1<sup>st</sup> day employee takes paid sick leave.
- If require notice under Domestic Violence Leave Act, must comply with WAC 296.135.060.
- Requires written policy or collective bargaining agreement outlining notice requirement and notify each employee of such policy.

# Verification - WAC 296-128-640

- May require verification from health care provider for absences exceeding 3 consecutive work days. (Note: May not acquire information explaining nature of condition.)
- Must have written policy/collective bargaining agreement.
- Must notify employee ahead of time.
- Establish reasonable timeline for employee verification (Note: May not be less than 10 days.)

# Verification - WAC 296-128-640 cont.

- Specify consequences for failing to or delay in providing verification.
- Maintain confidentiality of verification.
- Verification may not result in unreasonable burden or expense to employee. Note: There is a process for employee to explain why verification creates an unreasonable burden or expense.
- FMLA verification process supersedes state law.

# Rate of Pay - WAC 296-128-260

- Normal hourly compensation (not entitled to lost tips, gratuities or service charges).
- If on commission or piece rate, paid normal hourly compensation or minimum wage, whichever is greater (use hourly rate employee earned during most recent pay period prior to using paid sick leave).
- Regulations specify formulas for non-exempt employees paid on salary, fluctuating pay rates or working shifts of indeterminate lengths.

# Reinstatement of accrued paid sick leave upon rehire - WAC 296-128-670

- Upon separation of employment, employers are not required to pay for accrued unused sick leave.
- May pay for accrued unused sick leave if agreed in writing.
- If rehired within 12 months, previously accrued unused sick leave must be reinstated and previous employment counted for determining eligibility to use paid sick leave.



# PTO Programs - WAC 296-128-680

- Can satisfy requirement for providing paid sick leave (if meet other statutory requirements).

# Shared Leave - WAC 296-128-690

- Employer may have shared leave programs.
- Must have written policy or collective bargaining agreements.
- Policy must be readily available to all employees.

# Shift Swapping - WAC 296-128-700

- Employer cannot require employee to search or find a replacement for time employee is out on paid sick leave.
- May work additional hours/shifts or trade shifts in lieu of using available sick leave.

# Front Loading- WAC 296-128-170

- May front load accrual of paid sick leave.
- Requires written policy/collective bargaining agreement addressing handling front loaded sick leave when an employee separates employment.
- May deduct from final pay any sick leave front loaded and used before earned.
- Requires prior written agreement for such deductions.

# Disciplinary Actions - WAC 296-128-730

- May discipline employee for misuse of paid sick leave.
- May not make deductions from paid sick leave bank.
- Requires written policy/collective bargaining agreement.
- Provide notice of policy to all employees.

# Notification and Reporting to Employees

## - WAC 296-128-740

- Must notify (written or electronic) each employee of entitlement to paid sick leave.
- Rate of accrual, authorized purposes.
- No retaliation for lawful use of paid sick leave.
- Existing employees by March 1, 2018.
- New hires - date of hire.

# Notification and Reporting to Employees

## - WAC 296-128-740 continued

- Monthly written or electronic notice of amount of accrued sick leave, reductions since prior notice and amount available.
- May be satisfied by regular payroll statements.

# Other

- Retaliation prohibited - WAC 296-128-750
- Enforcement - WAC 296-128-760-780
- Complaint Process - WAC 296-128-780-800



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THANK YOU FOR ATTENDING!

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