

Secure Scheduling Ordinance

Office of Labor Standards

12/14/2018

Office of Labor Standards



City of Seattle

**Thank you for joining our
Secure Scheduling Webinar.
Before we begin, please mute
your microphone!**





Seattle Labor Standards

1. Minimum Wage
2. Wage Theft
3. Paid Sick and Safe Time
4. Fair Chance Employment
5. **Secure Scheduling**
6. Hotel Employees Health and Safety Initiative
7. Domestic Workers Ordinance
8. Commuter Benefits Ordinance





206-256-5297

Employers

Business.laborstandards@seattle.gov

Workers

Workers.laborstandards@seattle.gov



ON-LINE RESOURCES

<http://www.seattle.gov/laborstandards/ordinances/secure-scheduling>

Ordinances

[Paid Sick and Safe Time](#)

[Fair Chance Employment](#)

[Minimum Wage](#)

[Wage Theft](#)

Secure Scheduling

[Contact_SSO](#)

[Hotel Employees Health and Safety Initiative](#)

[2016 Amendments](#)

Subscribe to Mailing List

Email*

First Name*

Last Name*

[View previous emails](#)

Secure Scheduling Ordinance

Secure Scheduling in Seattle: predictable schedules at work

Beginning July 1, 2017, Seattle has new Secure Scheduling requirements for hourly employees who work at large food services and retail establishments within Seattle city limits ([SMC 14.22](#)).

The law applies to:

- Retail and food service establishments with 500+ employees worldwide; and
- Full service restaurants with 500+ employees and 40+ full-service restaurant locations worldwide.

Upcoming Training >

Key Requirements >

Resources >

For more information about Secure Scheduling:

1

Call 206-684-4500.

Secure Scheduling Workplace Poster

The poster is titled "SECURE SCHEDULING ORDINANCE" and "SMC 14.22". It features a blue header with the Seattle Office of Labor Standards logo. The main content is organized into several sections with icons: "Good faith notices", "Right to report", "Advance notice of work schedule changes", "Right to meet", and "Right to have the current schedule". Each section contains a brief description of the requirement. A table at the bottom lists the ordinance's applicability to different types of employees. The footer includes the ordinance number and a note that the poster was created by the Seattle Office of Labor Standards.

[Download the Secure Scheduling Poster](#)

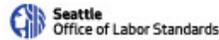
2017 Workplace Poster

The poster is titled "2017 Seattle Labor Standards Ordinances". It features a blue header with the Seattle Office of Labor Standards logo. The main content is organized into several sections with icons: "Minimum Wage", "Wage Theft", "Paid Sick and Safe Time", "Fair Chance Employment", and "Secure Scheduling". Each section contains a brief description of the requirement. The footer includes the ordinance number and a note that the poster was created by the Seattle Office of Labor Standards.



ON-LINE RESOURCES

<http://www.seattle.gov/laborstandards/ordinances/secure-scheduling>



SECURE SCHEDULING ORDINANCE
SMC 14.22

Covers hourly employees at retail and food services establishments with 500+ employees worldwide
Full service restaurants also must have 40+ full-service locations worldwide

EFFECTIVE JULY 1, 2017

- Good faith estimate.** For the upcoming year, employer must provide a written forecast of employee's median hours per work week and whether to expect on-call shifts.
- Right to request input into work schedule.** Before the work schedule is posted, employer must grant schedule requests related to a major life event (employee's transportation, housing, other jobs), education, caregiving, and self-care for serious health condition) unless the employer identifies a bona fide business reason (significant cost or disruption).
- Advance notice of work schedule.** Employer must post work schedules 14 days in advance.
- Right to rest between work shifts.** Employer must pay time-and-a-half for any hours worked between closing and opening (closing) shifts that are separated by less than 10 hours.
- Access to hours for current employees.** Before hiring new employees, employer must post notice of available hours for 3 days and offer the job to qualified, current employee(s), subject to exceptions.

Premium pay for work schedule changes after schedule is posted.

- Additional hours:** Employer must provide an additional hour of pay, plus wages earned.
- Subtracted hours:** Employer must pay for half of the hours not worked, plus wages earned, for regular and on-call shifts.
- Exceptions to premium pay requirements:**
 - Grace period for additions or subtractions of 15 minutes or less.
 - Employee requests for schedule changes and/or shift swaps with another employee.
 - Employer reduction of hours due to disciplinary reasons.
 - Employer inability to begin or continue operations due to events such as a public utilities failure, a natural disaster, or inclement weather.
 - Employee acceptance of additional hours in response to employer:
 - Mean communication about additional hours due to scheduled employee not being able to work; or
 - In-person group communication about additional hours that are due to unanticipated customer needs and are consecutive to employee's current shift.

This law applies to employees regardless of immigration status. Employees are not allowed to engage in strikes or pickets in violation of their collective bargaining agreement. The Seattle Office of Labor Standards provides language translations, interpretation, and accommodation for people with disabilities upon request.

Employers Private and food services, including full-service restaurants and catering.	Employees Private and food services, including catering, hotels, and long-term care—See a list on our site.	Contact Us 315-644-4568 www.seattle.gov/laborstandards
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TRANSLATIONS FOR YOUR LANGUAGE: Arabic | Spanish | Chinese | Korean | Vietnamese | Tagalog | Hindi | Urdu | Persian | Farsi | Amharic | Somali | Swahili | Vietnamese | Tagalog | Hindi | Urdu | Persian | Farsi | Amharic | Somali | Swahili and more.

Poster created by the Seattle Office of Labor Standards; cover graphics courtesy of the Seattle City Council

- Links to Ordinance
- Links to Administrative Rules
- Power point presentations
- Templates
- Workplace Poster
- Translations
- Questions & Answers



HOURLY EMPLOYEES

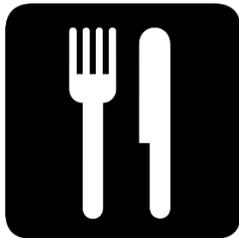


Large Food Services & Retail



1. Type of Business

- ❖ **Retail** = 2012 or 2017 NAICS code 441 through 453998
- ❖ **Food Service** = 2012 or 2017 NAICS code 722



2. Size of Business

- ❖ 500+ employees worldwide
- ❖ Full Service Restaurants = 40+ restaurant locations

NAICS Code--Seattle Business license

<https://www.seattle.gov/licenses/find-a-business>

FIND A BUSINESS

Need to look up a business? Search the database for licensed Seattle businesses. You can search by business name, industry type or zip code.

The Seattle business license tax certificate database shows you the following information about a business:

- legal name
- trade name ("doing business as")
- main location address
- phone number
- license tax certificate expiration date
- industry type and Standard Industrial Code (SIC)

City of Seattle Business License Database

Search by Company Name

If you are entering a partial name, please provide as many characters as possible.

Legal Name or Trade Name contains:

Search by Business' Physical Address

Business' physical address contains:

Search by Commodity (NAICS Code)

Search by Zip Code/Neighborhood

- [View the number of Seattle Businesses in the 100 most popular North American Industry Classification System Codes](#)
- [View a list of all North American Industry Classification System Codes and their descriptions](#)

For more information on the Business License Database email: tax@seattle.gov



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City of Seattle Business License Database

Your search found 1 Businesses named **Archie McPhee**.

[Back to Search](#)

Follow the links below to view a list of companies with the same NAICS code.



Customer # (Business license #): **596812**
Legal Name: **ACCOUTREMENTS LLC** Trade Name: **ARCHIE MCPHEE**
4500 STONE WAY N SEATTLE, WA 98103
NAICS: [453220](#), [Gift, Novelty, and Souvenir Stores](#)
License types:
BUSINESS LICENSE **Renewal Date:** 12/31/2016 **Phone:** (425) 349-3838
SCANNING SYSTEM: 4 OR MORE **Renewal Date:** 12/31/2016 **Phone:** (425) 349-3838



Scheduling Requirements

- 1. Advance notice of schedule**
- 2. Pay for schedule changes**
- 3. Good faith estimate of work schedule**
- 4. Right to request input into work schedule**
- 5. Right to rest between work shifts**
- 6. Access to hours for current employees**



Advance notice of work schedule

Employer provides work schedule

14 days in advance.



Advance notice of work schedule

March 2018

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
26	27	28	1	2	3	4
Schedule is Posted 5	6	7	8	9	10	11
12	13	14	15	16	17	18
First day on schedule. 19	20 <small>First Day of Spring</small>	21	22	23	24 <small>St Patrick's Day</small>	25 <small>Palm Sunday</small>
26	27	28	29	30 <small>Good Friday</small>	31	1 <small>Easter April Fool's Day Daylight Saving Time Starts</small>
2	3	4	5	6	7	8



EXCEPTIONS ➡ Advance notice of schedule

Exceptions for “new and returning employees”

- ❖ Employees with a work schedule change.
- ❖ New employees at time of hire.
- ❖ Transfers, promotions, and new job classifications.
- ❖ Employees who are jointly employed and starting a new assignment (e.g. employees provided by a staffing agency, contractor, subcontractor); and
- ❖ Returning employees from a leave of absence.



Pay For Schedule Changes

Employer provides additional pay for employer-requested schedule changes (with some exceptions).



Pay For Schedule Changes

Additional pay (i.e. “premium pay”) in addition to payment for hours worked.

- 1. Adding hours** = Payment for one hour at the scheduled rate.
 - ❖ Pro-rated payment allowed for schedule changes that are less than one hour.
 - ❖ Employee right to decline.
- 2. Subtracting hours (including on-call shifts)** = Payment for half the hours not worked.
 - ❖ Grace period = 15 minutes.



Exceptions Pay For Schedule Changes

Employer DOES NOT provide additional pay for certain schedule changes.



Exceptions Pay For Schedule Changes

1. Employee-requested changes*
2. Shift swaps
3. Access to hours
4. Discipline*
5. Operations cannot begin or continue
6. Mass communication*
7. In-person group communication

* Record-keeping requirement



Exceptions Pay For Schedule Changes

“Mass communication”

Employer-initiated, written message sent to two or more employees about availability of additional hours due to a scheduled employee not being able to work.

Required information

1. The message is a mass communication;
2. Accepting the offer of additional hours is voluntary and the employee has the right to decline such hours; and
3. Accepting such hours does not require the employer to provide additional pay for work schedule changes.



Exceptions Pay For Schedule Changes

“In-person group communication”

Employer-initiated, discussion with two or more employees about availability of additional hours due to unanticipated customer needs.

Hours must be consecutive to current shift.

Required information

1. Accepting the offer of additional hours is voluntary and the employee has the right to decline such hours; and
2. Accepting such hours does not require the employer to provide additional pay for work schedule changes.



Good Faith Estimate

**Employer provides written estimate
of median hours and on-call shifts.**



Good Faith Estimate

- 1. Employer provides written information.**
 - ❖ **Median hours** per work schedule over one year period (divided into quarters);
 - ❖ **On-call shifts.**
- 2. New employees. Provide GFE at time of hire.**
- 3. Existing employees.**
 - ❖ **Revise GFE once every year;**
 - ❖ **Revise GFE when an employee provides notice of a “significant change”** (30% change over a quarter period) between median hours in GFE and advance work schedule.
- 4. Translations required.** Provide GFE in English and primary language of the employee.



Good Faith Estimate

<http://www.seattle.gov/laborstandards/ordinances/secure-scheduling>

Press to clear form
(Form will retain employers information)

Date: _____



Seattle Office of Labor Standards Notice of Employment Information

Employers are required to provide written notice of employment information to every employee working in Seattle, (1) at time of hire and (2) before any change to such employment information (except for manager or supervisor contact information). The notice must be provided in English and the primary language of the employee receiving the information. For more information contact Seattle Office of Labor Standards at (206) 684-4500 or see www.seattle.gov/laborstandards

Employee

Effective Date of this notice _____

At hire Existing Employee

Change to Employment Information - What change to employment information?

Employer name Employer address Employer phone number/email address Employer tip policy

Employee rate of pay or overtime eligibility Employee pay basis Employee pay day

1. Employee name _____

2. Employee position(s) _____

Employer

1. Name _____

Other name of employer, including "doing business as" name

2. Physical address

Street _____

City _____ State _____ Zip _____

Mailing address Same as physical address

Street _____

City _____ State _____ Zip _____

3. General phone number _____ Email _____

4. Manager or supervisor name _____ Phone number _____

5. Manager or supervisor email _____

Published: 3/30/16 Revised: 5/25/17

Employee Payment Information

1. Rate or rates of pay (e.g. hourly wage or annual salary) _____

2. Overtime eligibility – "Overtime eligible" means employers must pay 1.5x the regular rate of pay for hours worked in excess of 40 hours in a workweek.

Overtime eligible Not overtime eligible

3. Pay basis - check box

Hour

Day

Piece rate

Non-discretionary Bonus

Discretionary Bonus

Shift

Week

Commission (overtime eligible)

Commission (overtime exempt)

Salary (overtime eligible)

Salary (overtime exempt)

Other (please explain below)

Explanation: _____

4. Regular Pay day _____

5. Tip policy

All tips are paid to the specific employee serving the customer

Tip pooling

Other tip policy

None (not a tipped position)

Explanation - Employers must provide explanation of any tip sharing, pooling or allocation policies:

Good Faith Estimate - Seattle's Secure Schedule Ordinance SMC 14.22

*Only required for hourly (i.e. overtime eligible) employees at large retail and food services establishments with 500+ employees worldwide (additional requirement for full-service restaurants to have 40+ full-service restaurant locations worldwide).

1. Median number of hours over the course of a year:

Year begins: _____ 1st Quarter: _____ 2nd Quarter: _____ 3rd Quarter: _____ 4th Quarter: _____

2. On-Call Shifts: YES NO

Protections against Retaliation

Employers are prohibited from taking adverse action (e.g. firing, demoting, and making threats to report immigration status) against any person for exercising rights protected by Seattle Labor Standards.



Seattle
Office of Labor Standards

For more information contact Seattle Office of Labor Standards at (206) 684-4500
or see www.seattle.gov/laborstandards



Good Faith Estimate

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Seattle

Office of Labor Standards

For more information contact Seattle Office of Labor Standards at **(206) 684-4500**

or see www.seattle.gov/laborstandards



Right To Request

Employee can request schedule preferences prior to posted work schedule.



Right To Request

1. **Employee can request specific times and locations of work.**
2. Employer must complete **“interactive process”** within 3 weeks.
3. Employer has increased obligations for requests due to **“major life events.”**
 - ❖ Grant such requests unless there is a bona fide business reason for denial.
 - ❖ Provide a written response (e.g. written schedule for grants).
4. Employer can ask for **“verifying information”** of major life event.
 - ❖ Inform employee of ability to redact private information.
 - ❖ Accept written statement from employee or other documents described in SS rules.



Major Life Event

Important, serious or significant event related to employee's access to the workplace due to:



Changes in employee's transportation.



Changes in employee's housing.



Employee's own serious health condition.



Employee's responsibilities as a caregiver.



Employee's enrollment in a career-related educational or training program.



Employee's other job or jobs.

Bona Fide Business Reason



Significant & identifiable burden of additional costs.



Significant & identifiable detrimental effect on ability to meet organizational demands

- ❖ A work schedule change that requires an employer to pay additional compensation under a law or written policy (e.g. holiday pay).
- ❖ An action causing employer to violate a bona fide collective bargaining agreement or a seniority system in a written policy;
- ❖ An action causing the employer to displace one or more employee(s) from an existing work schedule arrangement.



Right To Rest

Employer provides additional pay
for “**clopenings**” separated by less
than 10 hours.



Right To Rest

1. **“Clopening”** ➔ **Employee works closing and opening work shifts.**
2. **Employee request or consent**
 - ❖ Employer can only schedule clopenings separated by less than 10 hours upon employee request or consent.
3. **Additional pay** (i.e. “premium pay”)
 - ❖ Employer must pay 1.5x scheduled rate of pay for hours worked that are less than ten hours apart.
4. **Exception**
 - ❖ Additional pay does not apply to “split shifts.”



Access To hours

Before hiring **new employees**

(including temporary employees)

**employers must offer additional hours of work to
current employees.**



Access To hours

3 + 2 Days = Notice + Offer

1. Notice ➔ Three days

Employer posts written information about additional hours in noticeable place at worksite for all employees on the payroll

2. Offer ➔ Two Days

Employer offers additional hours to qualified, current employee(s) and allows two days to consider offer.



Exceptions → Access To Hours

**Employer can immediately
hire new employees in certain
situations.**



Exceptions Access To Hours

1. **Written declination from all current employees**
2. **Written declination from employees on “Access to Hours List(s)”**
 - ❖ Written list of employees who receive notice of additional hours available for work.
 - ❖ Employees are automatically on the list.
 - ❖ Employees can ask to be added or removed at time of hire or during employment.
 - ❖ Employer must make list available for viewing to employees upon request.



Exceptions Access To Hours

3. Diversity hiring programs

- ❖ Hours of work that the employer has designated for hiring programs (e.g. diversity, supported employment, young adult programs);
- ❖ Affiliated with a government entity or external non-profit organization;
- ❖ Approved by Labor Standards Advisory Commission; and
- ❖ Confirmed by OLS.



OTHER REQUIREMENTS

- 1. Record keeping**
- 2. Poster & translations**
- 3. Protections against retaliation**
- 4. Waiver in CBA**
- 5. Employees who are jointly employed**



Record Keeping – 3 years

1. **Good faith estimates**
2. **Right to request** – Employer’s grant or denial of employee’s request for schedule preferences related to major life event.
3. **Advance notice of work schedules**
4. **Pay for work schedule changes** - Payroll records showing additional pay provided to each employee.
5. **Exceptions to pay for work schedule changes**
 - ❖ Mass communications.
 - ❖ Documentation of employee-requested changes.
 - ❖ Documentation of employee discipline.
6. **Access to hours** - Notices for additional hours of work.
7. **Exceptions to access to hours**
 - ❖ Written confirmation from employees – Confirmation from all employees, or employees on the access to hours list, that they are not interested in accepting additional hours of work.
 - ❖ Access to hours list(s) - Records of employees who have opted out of receiving written notice of additional hours of work.



Translations

- 1. Employers must translate the following documents**
 - ❖ Good faith estimate
 - ❖ Advance notice of work schedule
 - ❖ Notice for access to hours
 - ❖ Workplace poster
- 2. OLS will translate documents and post on website**
 - ❖ Employers are not required to provide translations until OLS posts the appropriate documents



Retaliation

1. Protections from retaliation

- ❖ Employers shall not interfere with any employee right protected by ordinance.
- ❖ Employees have the right to decline any hours not on the posted schedule.

2. Discipline permitted for certain situations

- ❖ Abuse of employer's requirements for employee-requested work schedule changes and/or preferences PRIOR to posted work schedule; and
- ❖ Failure to comply with, or abuse of, employer's requirements for employee-requested work schedule changes AFTER the posted work schedule.



Waiver

Waiver allowed in CBA

1. **Express waiver** - Waiver must be expressly stated in a collective bargaining agreement; and
2. **Alternative scheduling structure** - Employees must ratify an alternative scheduling structure that meets public policy goals of ordinance



Joint Employees

Special requirements for joint employees:

- ✓ Temporary services provider
- ✓ Staffing agency
- ✓ Contractor
- ✓ Subcontractor
- ✓ Other employer(s)



Joint Employees

1. **Joint liability** - Joint employers are individually and jointly responsible for compliance.
2. **Good faith estimate** - Employers provide a good faith estimate when such employees start each distinct assignment.
3. **Advance notice of work schedule** - Employers may immediately place such employees on posted work schedules without providing 14 days of advance notice.
4. **Pay for work schedule changes** - Employers provide additional pay for each work schedule change after such employee has started a distinct assignment.
5. **Access to hours** - Employers are not required to provide notice of additional hours of work to such employees if they are not on the employer's payroll.



Scenarios → Pay For Work Schedule Changes

Which of the following situations requires additional pay for work schedule changes after the schedule is posted?

- 1. Employee calls out sick.** Manager calls all employees on the roster to find replacement coverage. Maria picks-up the shift.
- 2. Business is slow.** Manager asks currently-working employees if anyone wants to go home early, Jose accepts the offer and leaves 90 minutes early.
- 3. Business is booming.** Manager sends a mass text to all employees with notice of additional hours. Erica accepts two shifts.



Scenarios → Pay For Work Schedule Changes

Which of the following situations requires additional pay for work schedule changes after the schedule is posted?

- 1. Business is uncertain.** Manager adds an “open shift” on the posted schedule and asks employees to sign-up if they are interested.
- 2. Weather is wretched and gloomy.** Manager of an outdoor café sends all employees home, but stays herself to staff the business solo.
- 3. A tree fell on the store during the windstorm.** The store is closed for a week and all shifts are cancelled.



Thank you!





206-256-5297

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