

Washington's New Minimum Wage and Paid Sick Leave Become Law With Fast-Approaching Effective Dates

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With all of the votes counted, Initiative 1433, which will raise the minimum wage and require paid sick leave throughout Washington, has passed by a fairly wide margin. The first substantial increase in the minimum wage begins on January 1, 2017, while the paid sick leave requirement goes into effect on January 1, 2018. Here are the key details about both the minimum wage increase and the paid sick leave requirements.

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Minimum Wage

In the very near term, Initiative 1433 requires employers to increase the minimum wage that they pay employees from the current rate of \$9.47 per hour to \$11.00 per hour beginning January 1, 2017. This new minimum wage is \$1.45 per hour more than the previously announced 2017 minimum wage, which was set to increase to \$9.55 per hour under current law. Washington's minimum wage will then increase over the following three years until it reaches \$13.50 on January 1, 2020. The below table shows the minimum wage increases approved by Washington voters on November 8, 2016:

Date	Hourly Rate under I-1433
January 1, 2017	\$11.00
January 1, 2018	\$11.50

January 1, 2019	\$12.00
January 1, 2020	\$13.50

Beginning in September 2020 and on each September thereafter, the Washington State Department of Labor and Industries will be charged with calculating the next year's minimum wage based on inflation. Notably, Initiative 1433 also clearly states that tips, gratuities, and service charges are in addition to, and not counted towards, the employee's hourly minimum wage.

Initiative 1433 does not affect minimum wage requirements in Seattle (which are \$11.00-\$15.00 per hour, depending on the number of employees and benefits provided, beginning January 1, 2017), Tacoma (which is \$11.15 per hour beginning on January 1, 2017), and SeaTac (which is \$15.35 per hour beginning on January 1, 2017 for hospitality and transportation employees).

Paid Sick Leave

Initiative 1433 also requires Washington employers to provide paid sick leave to employees beginning on January 1, 2018. The new paid sick leave requirement is similar in its construction to current municipal paid sick and safe leave ordinances in Washington in terms of accrual rates, reasons for leave, and carryover limits. The key differences are that the law fails to create a yearly accrual cap or a yearly usage cap for paid sick leave and may permit an employee to accrue more hours in one year than some municipal ordinances require.

The basics of the paid sick leave requirements found in Initiative 1433 are as follows:

Accrual

Employees must be permitted to accrue one hour of paid sick leave for every 40 hours worked, and accrual begins on the first day of employment. An employer may choose to front-load the sick leave entitlement so long as the frontloaded amount is sufficient to meet the requirements of the law. There is no limit on the number of hours an employee may accrue in one year.

Usage

Employees may use paid sick leave for a number of different reasons including:

- an employee's illness, injury, or health condition, including diagnosis, treatment, care, and preventive care;
- to care for a family member's illness, injury, or health condition, including diagnosis, treatment, care, and preventive care;
- when an employee's place of business or an employee's child's school or place of care is closed by a public health official for any health-related reason; or,
- for employee absences for qualified leave under the domestic violence leave act.

An employee may begin using paid sick leave on the 90th calendar day of employment. The new law establishes notice and payment provisions and other restrictions on usage and documentation in support of the need for leave. Importantly, employers may not require an employee using paid sick leave to find a replacement worker to cover hours for which the employee is using paid sick leave.

Carryover

Employers are only required to permit employees to carry over 40 hours of paid sick leave.

Miscellaneous

Upon separation of employment, employers are not required to pay employees for any accrued, unused paid sick leave. Employers may not discriminate or retaliate against employees for their use of paid sick leave.

The Washington State Department of Labor and Industries is charged with adopting and implementing rules to carry out and enforce Initiative 1433. Once these new regulations are announced, we will provide more guidance on the new paid sick leave requirements.

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