

# Portland Paid Sick Leave Compliance Guidance\*

**Effective Date: January 1, 2014**

*\*This checklist is intended as basic compliance guidance only. It does not address every aspect of the new Portland Paid Sick Leave Ordinance. Employers should seek legal advice tailored to their specific situations.*

<input checked="" type="checkbox"/>	<b>Employer Decisions</b>
	<b>1. Determine if your employees will be covered by PSL, Paid or Unpaid</b>
	<ul style="list-style-type: none"> <li>• Most private sector employees working within the City of Portland are covered, regardless of where employer is located.</li> <li>• Employers with 6 or more employees must provide paid leave; count all employees, including employees who work outside Oregon.</li> </ul>
	<b>2. Determine if your existing policy meets all PSL requirements:</b>
	<ul style="list-style-type: none"> <li>• <u>Use:</u> Are all PSL usage purposes covered by your existing policy?</li> <li>• <u>Accrual rate:</u> Do employees receive the minimum accrual required?</li> <li>• <u>Waiting period for use:</u> Leave must be available for use after 90 days and 240 hours.</li> <li>• <u>Carryover:</u> Do you meet requirements for carryover to next calendar year?</li> <li>• <u>Cash-out:</u> PSL compliance does not require cash-out, but does your existing policy require this?</li> <li>• <u>Rate of Pay:</u> PSL is compensated at the same hourly rate as employee would have earned during the time the paid leave is taken.</li> <li>• <u>Shift trading:</u> PSL may not be conditioned upon employees finding a replacement worker or working an alternative shift.</li> <li>• <u>Leave documentation:</u> Employers may only request documentation after third consecutive absence, and may not require an explanation of the nature of the illness, except for those absences covered by other leave laws.</li> </ul>
	<b>3. Determine Compliance Methods – such as:</b>
	<ul style="list-style-type: none"> <li>• Modifying existing policies to comply.</li> <li>• Adopting new or replacement policies, such as front-loaded sick or vacation banks, or a combined or universal paid time off policy (PTO).</li> <li>• Coordinate other leave policies (OFLA, FMLA, etc.) with PSL. PSL may run concurrently with other unpaid leaves of absence.</li> </ul>
	<b>4. Make Key Administrative Decisions:</b>
	<ul style="list-style-type: none"> <li>• <u>PSL Eligibility:</u> How will you track hours worked in Portland for employees who occasionally work in Portland?</li> <li>• <u>Notice to employees each quarter:</u> How will you communicate the amount of available PSL?</li> <li>• <u>Workplace postings:</u> In which facilities will you post information? (Posters required in each establishment eligible employees are employed.)</li> <li>• <u>Update absence control policies:</u> PSL may not be used as a reason for discipline or other adverse employment action.</li> </ul>

	<b><u>Written Policies</u></b>
	1. Update written policies to conform to decisions above.
	2. Update related policies, such as DV leave, OFLA leave, and employer's default sick leave or PTO policies
	<b><u>Employee Notice</u></b>
	1. Communicate the availability of the PSL benefit, and any key changes in employer's existing policies and practices.
	2. Communicate procedural expectations for eligible employees to notify the employer when they intend to use PSL.
	3. Post required posters.
	<b><u>Payroll and Tracking</u></b>
	1. Track hours worked within the City of Portland for occasional workers.
	2. Ensure employer has records retention policies to meet PSL and related requirements (2 years is required, 3 years is better).
	<b><u>Training</u></b>
	1. Train supervisors and HR professionals regarding employee usage rights, including when to request doctor's notes or other documentation.
	2. Train supervisors and HR professionals about anti-retaliation provisions.
	3. Train HR professionals about the interaction of PSL with employees' FMLA/OFLA, ADA or other leave rights.
	4. Train HR professionals regarding 6-month break in service rule.

If you have questions about this or other workplace developments, please contact Mark Crabtree, at (503) 229-0404 or crabtreem@jacksonlewis.com, or the Jackson Lewis attorney with whom you regularly work.