



SAN FRANCISCO
OFFICE OF SMALL BUSINESS

CITY AND COUNTY OF SAN FRANCISCO
EDWIN M. LEE, MAYOR

OFFICE OF SMALL BUSINESS
REGINA DICK-ENDRIZZI, DIRECTOR

May 31, 2017

Ms. Angela Calvillo, Clerk of the Board
City Hall Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

RE: BOS File No. 170240 [Police, Building Codes - Lactation in the Workplace]

Small Business Commission Recommendation to the Board of Supervisors: **Approval**

Dear Ms. Calvillo,

On May 8, 2017, the Small Business Commission voted (5-0, 2 absent) to recommend that the Board of Supervisors approve BOS File No. 170240.

The Small Business Commission (SBC) supports the policy goals of the Lactation in the Workplace ordinance. The SBC primarily focused on Sections 3300I.5 Required Policy and Process for Requesting Lactation Accommodation, 3300I.7 Implementation and Enforcement and 3300I.9 Creation of Employer Best Practices.

Most businesses become aware of new employee regulations through in-house or contracted human resources or legal counsel. Small businesses generally do not have in-house human resource support until they reach 50 employees¹. Businesses between 20 and 50 may obtain some contract human resource support if they can afford it. Upon passage of this ordinance the Office of Labor Standard and Enforcement is able to inform employers with 20+ employees worldwide of the new employee regulation. Therefore it is the employers that have 1 to 19 employees that the SBC paid particular attention to due to their general lack of human resource and/or legal counsel support. The SBC did give secondary focus on employers with 20 to 49 employees again some these businesses base upon revenue generation may not have human resource support. The SBC made special note of retail employers that have one or two staff working the retail sales floor and to the challenge they may have even if they have adequate space for a temporary lactation space due to compliance requirements for break and hours worked regulations for all employees. The SBC did not provide input or direction on Section 3300I.8 Lactation Rooms in New Construction and Remodeled Buildings.

To meet the requirements of the lactation ordinance a high percentage of San Francisco's small businesses will do so by providing a temporary lactation space and for many of San Francisco small businesses in the neighborhood commercial corridors the employee break area can be very small. There will definitely be businesses that will be space challenged in the providing a temporary lactation space. The feedback the SBC heard from these small businesses, particularly those with less than 20 employees

¹ California Employers Association

is that they agree with the policy goal. What is a concern to these businesses is that they are often not informed of new employer regulations and often need legal guidance and direction on how to comply. (The same type of support and guidance businesses that have human resource or legal counsel services.) Businesses that are space constricted expressed particular concern as they may not be able to accommodate the space and who and how will that be evaluated if they cannot create a temporary space. Additional questions centered on meeting compliance with this ordinance without violating other labor laws for their other employees.

When establishing new employer labor laws, the goal should be to not only provide a policy that is beneficial to employees but to also help our small businesses be successful in implementing these laws. With the amendments Ashley Summer, aide to Supervisor Tang presented to the SBC, the SBC determined the ordinance gives careful consideration in achieving this goal and is taking the right approach in implementing this new employer regulation.

1. The law does not go into effect until January 1, 2018. This ensures there is time for OLSE to develop administrative guidelines and outreach to the tens of thousands small businesses with 1 to 19 employees.
2. Amendment to clarify that before OLSE issues a Notice of Violation that they offer resources to the employer on how to comply with the law.
3. The requirement of Department of Public Health's provide and examples of what permissible space for lactation means and what constitutes a financial hardship using examples.

The SBC is appreciates the committed efforts Supervisor Tang office will take to work with OLSE to provide outreach to employers with 20 or more employees and work with merchants associations and other business organizations to get the information to all employers, especially those with under 20 employees.

Ms. Summers noted in her presentation to the SBC that Supervisor Tang is giving consideration for an outreach position to be established so every employer with 1 to 19 employees is reached out to. As a side note: For the Paid Parity Ordinance the same outreach concerns will need to be addressed for this population of small businesses. The SBC supports this consideration.

The Office of Small Business and the Small Business Portal will provide information and education on this new employer regulation upon passage.

Thank you for considering the Commission's comments. Please feel free to contact me should you have any questions.

Sincerely,



Regina Dick-Endrizzi
Director, Office of Small Business

cc: Katy Tang, Board of Supervisors
Malia Cohen, Board of Supervisors

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