

REVISED LEGISLATIVE DIGEST
(Amended in Committee – March 4, 2021)

[Police Code - Grocery Store, Drug Store, Restaurant, and On-Demand Delivery Service ~~Employee~~ Worker Protections]

Ordinance amending the Police Code to require grocery store, drug store, restaurant, and on-demand delivery service employers to provide health and scheduling protections related to COVID-19 to employees workers; and to sunset an emergency ordinance with similar requirements.

Existing Law

An emergency ordinance (Ordinance No. 74-20, reenacted by Ordinance No. 110-20, Ordinance No. 156-20, and Ordinance No. 010-21) temporarily requires certain health and safety measures for grocery store, drug store, restaurant, and on-demand delivery service employees to reduce the spread of COVID-19.

The emergency ordinance reinforces the employee health and safety measures in the City's Safer at Home Order (currently, Order No. C19-07t) and clarifies how they apply in the on-demand delivery service context, where employees do not have a fixed workplace and may be misclassified as independent contractors. The emergency ordinance requires on-demand delivery services to provide to or reimburse employees for hand sanitizer, disinfecting cleaning supplies, and any needed personal protective equipment such as gloves and face masks, and to provide employees a social distancing protocol. Additionally, on-demand delivery services must offer delivery employees the option of a no-contact delivery method where feasible and must provide employees detailed guidance on how to safely make both in-person and no-contact deliveries. On-demand delivery services must require delivery drivers to regularly disinfect high-touch surfaces in their vehicles and compensate them for doing so.

The emergency ordinance also provides grocery, drug store, restaurant, and on-demand delivery service employees scheduling protections that allow them to cancel scheduled work for any reason for which an employee may use paid sick leave under the City's Paid Sick Leave Ordinance or emergency paid sick leave under the federal Families First Coronavirus Response Act, without regard to whether the employees have paid leave available for use. Employees may reschedule the work if they do not have leave available or choose not to use it.

The emergency ordinance includes anti-retaliation protections that, among other provisions, prohibit interfering with any right protected under the emergency ordinance and taking any adverse action against an employee for exercising rights protected under the emergency ordinance.

The Office of Labor Standards Enforcement (OLSE) has implemented and is enforcing the emergency ordinance. Complaints of potential violations can be reported by calling 311 or contacting OLSE.

Amendments to Existing Law

The substantive provisions of this ordinance are similar to the emergency ordinance, but this ordinance codifies and updates the emergency ordinance. Since the emergency ordinance was enacted, its specific employee health and safety requirements have been included in Local Health Officer directives. This ordinance references these directives, finds that the ordinance is needed to provide a remedy for employees whose health may be jeopardized by violations of these directives, and independently requires specified health and safety measures. Specifically, employers covered by the ordinance must: (1) provide employees with personal protective equipment and sanitation supplies; (2) provide employees with a Social Distancing Protocol and educate them on it; (3) require social distancing, provide for contactless payment systems or sanitize payment systems after each use, and provide for no-contact delivery or pick up if feasible; and (4) require employees to regularly disinfect high-touch surfaces during their shifts.

The proposed ordinance was amended in committee to: (1) update the findings; (2) change defined terms “covered employer” and “employee” to “covered entity” and “worker,” respectively; (3) require that workers be paid for disinfecting surfaces, at their normal wage rate for employees and no less than the Personal Services Minimum Contractual Rate under Administrative Code Chapter 12V for independent contractors; (4) add a notice requirement; (5) add a records retention requirement; (6) change the administrative penalty structure; and (7) change the sunset from two years from its effective date to the sooner of two years or the end of the local health emergency.

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