

LEGISLATIVE DIGEST

[Emergency Ordinance - Grocery Store, Drug Store, Restaurant, and On-Demand Delivery Service Employee Protections]

Emergency ordinance to temporarily require grocery store, drug store, restaurant, and on-demand delivery service employers to provide health, scheduling, and hours protections to employees during the public health emergency related to COVID-19.

Existing Law

Local Health Order No. C19-07b requires individuals in the City to shelter in place, or stay at home, except for specified essential needs. Under this Order, many businesses have closed temporarily. Restaurants are prohibited from operating except for carry out and delivery service. Other Essential Businesses, including grocery stores, drug stores, and on-demand delivery services for food, medicines, and other essential items, may continue to operate, subject to certain social distancing and sanitation requirements. Among other provisions, these requirements include that essential businesses provide employees hand sanitizer, soap and water, or effective disinfectant; provide employees with a social distancing protocol, which requires maintaining at least six feet of distance from people who are not part of the same household; and regularly disinfect high-touch surfaces.

Amendments to Current Law

This emergency ordinance does not amend current law, but it supplements and clarifies how Health Order No. C19-07b applies in the on-demand delivery service context, where delivery drivers and shoppers do not work in a fixed workplace.

Background Information

This emergency ordinance provides certain protections for employees of “covered employers,” which are grocery stores, drug stores, restaurants, and on-demand delivery services. Consistent with the presumption in California Labor Code Section 2750.3, which has not been demonstrated to be inapplicable, on-demand delivery service workers are classified as employees for the purposes of the emergency ordinance regardless of how the employer classifies them.

The emergency ordinance supplements and clarifies how Order No. C19-07b’s social distancing and sanitation requirements apply in the on-demand delivery service context. The emergency ordinance requires on-demand delivery services to provide to or reimburse employees for the reasonable cost of purchasing necessary 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 to facilitate social distancing and provide them detailed guidance on how to safely make both in-person and no-contact deliveries. On-demand delivery services also must require delivery drivers to regularly disinfect high-touch surfaces in their vehicles and compensate them for doing so.

The emergency order provides scheduling protections that give grocery, drug store, restaurant, and on-demand delivery service employees an additional tool to keep themselves safe. Covered employers must, where reasonably feasible, allow employees to cancel work for any reason for which sick leave or emergency paid sick leave under the federal Families First Coronavirus Response Act may be taken. Employees may use any available accrued paid sick leave or emergency paid sick leave, or reschedule the work.

The emergency ordinance requires covered employers to offer additional work to part-time employees before they hire new employees or contractors to perform work if the part-time employees are qualified for the work and the work is similar to their normal duties. Covered employers must give employees 72 hours to accept the additional work before hiring additional employees.

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 will implement and enforce the emergency ordinance.