

BOARD of SUPERVISORS



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## MEMORANDUM

TO: Naomi Kelly, City Administrator  
Dr. Grant Colfax, Director, Department of Public Health

FROM: John Carroll, Assistant Clerk, Government Audit and Oversight  
Committee, Board of Supervisors

DATE: August 13, 2020

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Government Audit and Oversight Committee has received the following proposed legislation, introduced by Supervisor Haney on August 11, 2020:

**File No. 200912**

**Reenactment of emergency ordinance (Ordinance No. 74-20, reenacted by Ordinance No. 110-20) to temporarily require grocery store, drug store, restaurant, and on-demand delivery service employers to provide health and scheduling protections to employees during the public health emergency related to COVID-19.**

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Office of Chair Mar  
Office of Supervisor Haney  
Lynn Khaw, Office of the City Administrator  
Lihmei Leu, Office of the City Administrator  
Greg Wagner, Department of Public Health  
Dr. Naveena Bobba, Department of Public Health  
Sneha Patil, Department of Public Health

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

3 **Reenactment of emergency ordinance (Ordinance No. 74-20, reenacted by Ordinance**  
4 **No. 110-20) to temporarily require grocery store, drug store, restaurant, and on-demand**  
5 **delivery service employers to provide health and scheduling protections to employees**  
6 **during the public health emergency related to COVID-19.**

7 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
8 **Additions to Codes** are in *single-underline italics Times New Roman*;  
9 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman*~~.  
10 **Board amendment additions** are in double underlined Arial font.  
11 **Board amendment deletions** are in ~~Arial font~~.  
12 Asterisks (\* \* \* \*) indicate the omission of unchanged Code  
13 subsections or parts of tables.

14 Be it ordained by the People of the City and County of San Francisco:

15 Section 1. Declaration of Emergency Pursuant to Charter Section 2.107.

16 (a) Section 2.107 of the Charter authorizes passage of an emergency ordinance in  
17 cases of public emergency affecting life, health, or property, or for the uninterrupted operation  
18 of any City or County department or office required to comply with time limitations established  
19 by law. An emergency ordinance enacted under Charter Section 2.107 automatically  
20 terminates on the 61st day after passage, but may be reenacted upon the same terms and  
21 conditions applicable to its initial enactment.

22 (b) Pursuant to Charter Section 2.107, the City enacted Ordinance No. 74-20, an  
23 emergency ordinance to temporarily require grocery store, drug store, restaurant, and on-  
24 demand delivery service employers to provide health and scheduling protections to  
25 employees during the public health emergency related to COVID-19. That emergency

1 ordinance became effective when enacted, on May 1, 2020. Emergency Ordinance No. 110-  
2 20, effective July 10, 2020, reenacted Ordinance No. 74-20.

3 (c) The Board of Supervisors hereby finds that the findings declared in Sections 1 and  
4 2 of Ordinance No. 74-20 and reaffirmed in Ordinance No. 110-20 remain valid and  
5 compelling, and declares further that an actual emergency continues to exist that requires the  
6 reenactment of Ordinance No. 74-20 to reduce the likelihood of COVID-19 infection among  
7 employees of grocery stores, drug stores, restaurants, and on-demand delivery services and  
8 the members of the public with whom they interact.

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10 Section 2. Reenactment of Emergency Ordinance.

11 Consistent with Charter Section 2.107, this emergency ordinance reenacts for an  
12 additional 60 days the emergency ordinance temporarily requiring grocery store, drug store,  
13 restaurant, and on-demand delivery service employers to provide health and scheduling  
14 protections to employees during the public health emergency related to COVID-19 (Ordinance  
15 No. 74-20), as reenacted by Ordinance No. 110-20.

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17 Section 3. Effective Date; Expiration.

18 (a) If enacted prior to the expiration of Ordinance No. 110-20, which reenacted  
19 Ordinance No. 74-20, this reenacted emergency ordinance shall become effective  
20 immediately upon the date of expiration of Ordinance No. 110-20, and shall itself expire on the  
21 61st day following its effective date unless reenacted as provided by Charter Section 2.107, or  
22 upon the termination of the Public Health Emergency, whichever occurs first.

23 (b) If enacted after the expiration of Ordinance No. 110-20, this reenacted emergency  
24 ordinance shall become effective immediately upon enactment, and shall expire on the 61st

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1 day following its effective date unless reenacted as provided by Charter Section 2.107, or  
2 upon the termination of the Public Health Emergency, whichever occurs first.

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4 Section 4. Directions to Clerk.

5 The Clerk of the Board of Supervisors is hereby directed to place a copy of this  
6 reenacted emergency ordinance in File No. 200360 for Ordinance No. 74-20 and File No.  
7 200609 for Ordinance N0. 110-20, and to make a notation cross-referencing this emergency  
8 ordinance where Ordinance Nos. 74-20 and 110-20 appear on the Board of Supervisors  
9 website as legislation passed.

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11 Section 5. Supermajority Vote Required.

12 In accordance with Charter Section 2.107, passage of this reenacted emergency  
13 ordinance by the Board of Supervisors requires an affirmative vote of two-thirds of the Board  
14 of Supervisors.

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16 APPROVED AS TO FORM:  
17 DENNIS J. HERRERA, City Attorney

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By: /s/ \_\_\_\_\_  
LISA POWELL  
Deputy City Attorney

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**LEGISLATIVE DIGEST**

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

**Reenactment of emergency ordinance (Ordinance No. 74-20, reenacted by Ordinance No. 110-20) to temporarily require grocery store, drug store, restaurant, and on-demand delivery service employers to provide health and scheduling protections to employees during the public health emergency related to COVID-19.**

Existing Law

An emergency ordinance (Ordinance No. 74-20, reenacted by Ordinance No. 110-20) temporarily requires certain health and scheduling protections for grocery store, drug store, restaurant, and on-demand delivery service employees during the public health emergency related to COVID-19.

The legislative digest for that emergency ordinance is found in Board File No. 200360. Slightly edited, it summarizes the emergency ordinance as follows:

The 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 defined 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. C19-07f’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 must provide employees 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 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.

The emergency ordinance became effective on May 1, 2020, and the reenactment became effective on July 10, 2020. The reenactment expires on September 9, 2020.

#### Amendments to Existing Law

The proposed emergency ordinance reenacts Ordinance No. 74-20, with the result that it does not terminate on September 9, 2020, but rather is extended for an additional 60 days.