

BOARD of SUPERVISORS



City Hall
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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: September 23, 2020

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Government Audit and Oversight Committee has received the following proposed legislation, introduced by Supervisor Haney on September 15, 2020:

File No. 201054

Reenactment of emergency ordinance (Ordinance No. 74-20) 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
Lihmeei 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) to temporarily require**
4 **grocery store, drug store, restaurant, and on-demand delivery service employers to**
5 **provide health and scheduling protections to employees during the public health**
6 **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~~.
Asterisks (* * * *) indicate the omission of unchanged Code
subsections or parts of tables.

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

13
14 Section 1. Declaration of Emergency Pursuant to Charter Section 2.107.

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

21 (b) Pursuant to Charter Section 2.107, the City enacted Ordinance No. 74-20, an
22 emergency ordinance to temporarily require grocery store, drug store, restaurant, and on-
23 demand delivery service employers to provide health and scheduling protections to
24 employees during the public health emergency related to COVID-19. The emergency
25 ordinance became effective when enacted, on May 1, 2020. On July 10, 2020, an emergency

1 ordinance (Ordinance No. 110-20) reenacted Ordinance No. 74-20, and on August 28, 2020,
2 another emergency ordinance (Ordinance No. 156-20) again reenacted Ordinance No. 74-20,
3 as reenacted by Ordinance No. 110-20. Ordinance No. 156-20 became effective upon the
4 expiration of Ordinance No. 110-20 and will terminate automatically on November 8, 2020,
5 unless reenacted.

6 (c) The Board of Supervisors hereby finds that the findings declared in Sections 1 and
7 2 of Ordinance No. 74-20 and reaffirmed in Ordinance No. 110-20 and Ordinance No. 156-20
8 remain valid and compelling, and declares further that an actual emergency continues to exist
9 that requires the reenactment of Ordinance No. 74-20 to reduce the likelihood of COVID-19
10 infection among employees of grocery stores, drug stores, restaurants, and on-demand
11 delivery services and the members of the public with whom they interact.

12

13 Section 2. Reenactment of Emergency Ordinance.

14 Consistent with Charter Section 2.107, this emergency ordinance reenacts for an
15 additional 60 days the emergency ordinance temporarily requiring grocery store, drug store,
16 restaurant, and on-demand delivery service employers to provide health and scheduling
17 protections to employees during the public health emergency related to COVID-19 (Ordinance
18 No. 74-20), as reenacted by Ordinance No. 110-20 and Ordinance No. 156-20.

19

20 Section 3. Effective Date; Expiration.

21 (a) If enacted prior to the expiration of Ordinance No. 156-20, which reenacted
22 Ordinance No. 74-20, this reenacted emergency ordinance shall become effective
23 immediately upon the date of expiration of Ordinance No. 156-20, and shall itself expire on the
24 61st day following its effective date unless reenacted as provided by Charter Section 2.107, or
25 upon the termination of the Public Health Emergency, whichever occurs first.

1 (b) If enacted after the expiration of Ordinance No. 156-20, this reenacted emergency
2 ordinance shall become effective immediately upon enactment, and shall expire on the 61st
3 day following its effective date unless reenacted as provided by Charter Section 2.107, or
4 upon the termination of the Public Health Emergency, whichever occurs first.

5
6 Section 4. Directions to Clerk.

7 The Clerk of the Board of Supervisors is hereby directed to place a copy of this
8 reenacted emergency ordinance in File No. 200360 for Ordinance No. 74-20, File No. 200609
9 for Ordinance No. 110-20, and File No. 200912 for Ordinance No. 156-20 and to make a
10 notation cross-referencing this emergency ordinance where Ordinance Nos. 74-20, 110-20,
11 and 156-20 appear on the Board of Supervisors website as legislation passed.

12
13 Section 5. Supermajority Vote Required.

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

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

20 By: /s/ _____
21 LISA POWELL
22 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) 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 and Ordinance No. 156-20) 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 emergency Ordinance No. 74-20 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. C19-07i’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 original emergency ordinance, Ordinance No. 74-20, became effective on May 1, 2020; the reenactment Ordinance No. 110-20 became effective on July 10, 2020; and the reenactment Ordinance No. 156-20 became effective upon expiration of Ordinance No. 110-20, and will expire on November 8, 2020, unless reenacted.

Amendments to Existing Law

The proposed emergency ordinance reenacts Ordinance No. 74-20, with the result that it does not terminate on November 8, 2020, but rather is extended for an additional 60 days.

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Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor inquiries"
- 5. City Attorney Request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Haney

Subject:

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

The text is listed:

Reenactment of emergency ordinance (Ordinance No. 74-20) 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

Signature of Sponsoring Supervisor:

For Clerk's Use Only