

ORDINANCE NO. _____

An ordinance adding Article 5-72HH to Chapter XX of the Los Angeles Municipal Code to provide supplemental sick leave to workers affected by COVID-19.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. A new Article 5-72HH is added to Chapter XX of the Los Angeles Municipal Code to read as follows:

ARTICLE 5-72HH

COVID-19 SUPPLEMENTAL PAID SICK LEAVE

SEC. 200.51. PURPOSE.

As a result of the COVID-19 pandemic and "Safer at Home" emergency declarations by California Governor Gavin Newsome and Los Angeles Mayor Eric Garcetti, issued to protect the public health and welfare, many workers in the City of Los Angeles are facing significant job and economic insecurity. To ensure fair employment practices during the economic upheaval resulting from the pandemic and to reduce the demand on government-funded social services, the City hereby requires all employers in the City to provide its employees with supplemental paid sick leave for COVID-19 related reasons.

SEC. 200.52. DEFINITIONS.

The following definitions shall apply to this article:

- A. **"City"** means the City of Los Angeles.
- B. **"Employee"** means an individual who performs any work within the geographic boundaries of the City for an Employer. For purposes of this article, a worker is presumed to be an Employee, and an Employer has the burden to demonstrate that a worker is a bona fide independent contractor and not an Employee.
- C. **"Employer"** mean a person, as defined in Section 18 of the California Labor Code, including a corporate officer or executive, who directly or indirectly or through an agent or any other person, including through the services of a temporary service or staffing agency or similar entity, employs or exercises control over the wages, hours or working conditions of any Employee. This article applies only to an Employer with 500 or more employees nationally.
- D. **"Person"** means a person, association, organization, partnership, business trust, limited liability company or corporation.

E. **“Supplemental Paid Sick Leave”** means time an Employee is compensated by an Employer for COVID-19 related leave as described in Section 200.54.

F. **“First Responder”** means an employee of a state or local public agency who provides emergency response services, including any of the following:

1. A peace officer
2. A firefighter
3. A paramedic
4. An emergency medical technician
5. A public safety dispatcher or safety telecommunicator
6. An emergency response communication employee
7. Rescue service personnel

SEC. 200.53. COVID-19 SUPPLEMENTAL PAID SICK LEAVE.

A. An Employee who has been employed with the same Employer from February 3, 2020 through March 4, 2020, is entitled to Supplemental Paid Sick Leave as follows:

1. An Employee who works at least 40 hours per week or is classified as a full-time Employee by the Employer shall receive 80 hours of Supplemental Paid Sick Leave. Supplemental Paid Sick Leave shall be calculated based on an Employee's average two week pay over the period of February 3, 2020 through March 4, 2020.

2. An Employee who works less than 40 hours per week and is not classified as a full-time Employee by the Employer shall receive Supplemental Paid Sick Leave in an amount no greater than the Employee's average two week pay over the period of February 3, 2020 through March 4, 2020.

B. In no event shall the Supplemental Paid Sick Leave amount paid to an Employee exceed \$511 per day and \$5,110 in the aggregate. Employees of joint Employers are only entitled to the total aggregate amount of leave specified for Employees of one Employer.

SEC. 200.54. EMPLOYEE REQUEST FOR SUPPLEMENTAL PAID SICK LEAVE.

A. An Employer shall provide Supplemental Paid Sick Leave upon the oral or written request of an Employee if:

1. The Employee takes time off because a public health official or healthcare provider requires or recommends the Employee isolate or self-quarantine to prevent the spread of COVID-19;

2. The Employee takes time off work because the Employee is at least 65 years old or has a health condition such as heart disease, asthma, lung disease, diabetes, kidney disease, or weakened immune system;

3. The Employee takes time off work because the Employee needs to care for a family member who is not sick but who public health officials or healthcare providers have required or recommended isolation or self-quarantine; or

4. The Employee takes time off work because the Employee needs to provide care for a family member whose senior care provider or whose school or child care provider caring for a child under the age of 18 temporarily ceases operations in response to a public health or other public official's recommendation.

B. An Employer may not require a doctor's note or other documentation for the use of Supplemental Paid Sick Leave.

SEC. 200.55. EXEMPTIONS.

An Employer of an Employee who is either a First Responder or a health care provider as defined in Section 12945.2 of the California Government Code shall be exempt from this article.

SEC. 200.56. EMPLOYER OFFSET.

An Employer's obligation to provide 80 hours of Supplemental Paid Sick Leave under this article shall be reduced for every hour an Employer allowed an Employee to take paid leave in an amount equal to or greater than the requirements in Section 200.53, not including previously accrued hours, on or after March 4, 2020, for any of the reasons described in Section 200.54.A.1-5.

SEC. 200.57. ENFORCEMENT.

A. An Employee claiming a violation of this article may bring an action in Superior Court of the State of California against an Employer and may be awarded:

1. Reinstatement to the position the Employee was discharged in violation of this article.

2. Back pay and Supplemental Paid Sick Leave unlawfully withheld, calculated at the Employee's average rate of pay.

3. Other legal or equitable relief the court may deem appropriate.

B. If an Employee is the prevailing party in any legal action taken pursuant to this article, the court may award reasonable attorneys' fees and costs as part of the costs recoverable.

SEC. 200.58. RETALIATORY ACTION PROHIBITED.

No Employer shall discharge, reduce in compensation or otherwise discriminate against any Employee for opposing any practice proscribed by this article, for requesting to use or actually using Supplemental Paid Sick Leave under this article, for participating in proceedings related to this article, for seeking to enforce his or her rights under this article by any lawful means, or for otherwise asserting rights under this article.

SEC. 200.59. NO WAIVER OF RIGHTS.

Any waiver by an Employee of any or all of the provisions of this article shall be deemed contrary to public policy and shall be void and unenforceable.

SEC. 200.60. COEXISTENCE WITH OTHER AVAILABLE RELIEF FOR SPECIFIC DEPRIVATIONS OF PROTECTED RIGHTS.

With the exception of rights and remedies provided to employees pursuant to the federal Families First Coronavirus Response Act (HR 6201), the provisions of this article are in addition to or independent of any other rights, remedies, or procedures available under any other law and do not diminish, alter, or negate any other legal rights, remedies, or procedures available to an Employee.

SEC. 200.61. CONFLICTS.

Nothing in this article shall be interpreted or applied to create any power or duty in conflict with any federal or state law.

SEC. 200.62. SEVERABILITY.

If any subsection, sentence, clause or phrase of this article is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this article. The City Council hereby declares that it would have adopted this article and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the article would be subsequently declared invalid or unconstitutional.

SEC. 200.63. EXPIRATION OF ORDINANCE.

Due to the extraordinary effects on employment resulting from the COVID-19 pandemic, this ordinance shall be in effect until December 31, 2020, unless the City Council takes an action to extend this ordinance.

SEC. 200.64. EXEMPTION FOR COLLECTIVE BARGAINING AGREEMENT.

All of the provisions of this article, or any part of, may be expressly waived in a collective bargaining agreement, but only if the waiver is explicitly set forth in the agreement in clear and unambiguous terms. Unilateral implementation of terms and conditions of employment by either party to a collective bargaining relationship shall not constitute, or be permitted to constitute, a waiver of all or any of the provisions of this article.

Sec. 2. Urgency Clause. The City Council finds and declares that this ordinance is required for the immediate protection of the public peace, health, and safety for the following reason: The State of California and the City of Los Angeles have declared a state of emergency due to the novel COVID-19 pandemic. Residents are subject to “stay at home” orders and certain businesses must reduce services or close. The pandemic increases the threat to the safety and welfare of City workers and their families as workers’ incomes, health benefits, and the means to seek medical assistance are reduced or eliminated. Because of the immediate threat of economic hardship for workers in the City, this ordinance must become effective as soon as possible. For all these reasons, the ordinance shall become effective upon publication pursuant to Los Angeles Charter Section 253.

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By 
DAVID MICHAELSON
Chief Assistant City Attorney

Date 3/27/20

File No. _____

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The Clerk of the City of Los Angeles hereby certifies that the foregoing ordinance was passed by the Council of the City of Los Angeles, **by a vote of not less than three-fourths** of all its members.

CITY CLERK

MAYOR

Ordinance Passed _____

Approved _____