

WORKER PROTECTION, HEALTH AND SAFETY RELATED TO COVID-19

Background

- This ordinance was adopted to mitigate the spread and effect of COVID-19 coronavirus, to protect employees in the workplace, to ensure fair employment practices during upheaval from the pandemic, and to reduce the demand on government funded services.
- Any employer receiving financial assistance from the city through any program providing financial assistance due to COVID-19 must certify that the employer complies with this ordinance as a condition of funding. Violation of the chapter will result in refund financial assistance that has been received. City may file a civil action to recover any employer assistance due to the city.
- This ordinance is not intended to impact any employee rights or substitute for existing safety and health regulatory requirements including but not limited to Cal/OSHA, CDC, and/or state or local government orders.
- An employer cannot discharge, discipline, discriminate against, retaliate against, or reduce compensation of any employee exercising their rights under this ordinance. Within one year, an employee may bring an action in Superior Court of the State of California against an employer for violations of SCC 5.160.070 related to retaliatory actions.
- Violations of this chapter are subject to administrative penalties up to \$25,000 in accordance with Sacramento City Code Section 1.28.010.
- This ordinance became **effective on July 15, 2020** and will **sunset on March 31, 2021**. Originally this date was December 31, 2020, but with COVID-19 still of concern, City Council voted to extend the ordinance date. An employee can bring action or pursue remedies pursuant to this ordinance after this date in the alleged violation occurred prior to April 1, 2021.

Employer Safety Practices and Protocols

- Employers are required to implement the following physical-distancing, mitigation, and cleaning protocols and practices.
 - Daily cleaning and disinfection of high touch area in accordance with Center for Disease Control and Prevention (CDC) guidelines.
 - Maintenance of cleaning protocols established by the employer for other area of the employment site.
 - Establish protocols for action if the site has been exposed to a person who is a probable or confirmed case of COVID-19.
 - Provide employees access to regular handwashing with soap, hand sanitizer, and disinfectant wipes.
 - Cleaning of common areas (e.g., break room, locker rooms, rest rooms, and conference room) daily and between shifts.

- Provide face coverings for employees and mandating that those masks are wear while working on-site except when an employee can maintain a physical distance of six feet or is using break time to eat or drink.
- Establish protocols to ensure proper physical distancing.
- For employees working off-site, employer is not in violation of the code if the employer has taken steps to ensure compliance at the other worksite.

Right to Refuse Work

- An employee can refuse work for an employer, without pay, for violations of the employer safety practices and protocols listed above under the following circumstances:
 - Employee believes employer is in violation and provides notice to the employer of the violation.
 - City may investigate validity of the alleged violation. Within 15 days of written notice from the city, employer must cure any confirmed violation.
 - If the city finds the employer was not in violation or employer provides proof of curing violation, employee no longer has right for refusal.

Supplemental Paid Sick Leave

- Emergency Paid Sick Leave Act (EPSLA) exempt employers with 500 or more employees nationally must provide Supplemental Paid Sick Leave (SPSL). Employees who are a health care providers or emergency responders may be excluded from receiving SPSL.
- SPSL is provided in addition to any other paid leave the employer provides to an employee.
- Full-time employees who work 40 or more hours for an employer are entitled to 80 hours of SPSL.
- Part-time employees are entitled to an amount of hours equal to the number of hours worked on average during a two-week period. To calculate this average, the employer must use the number of hours the employee worked for each week during the six months prior to July 15, 2020 multiplied by two.
- If an employer has granted additional paid sick leave since March 19, 2020 specifically for use for COVID-19 related matters, the employer can use those leave hours as a credit against required SPSL hours.
- If an employee is entitled to leave hours pursuant to Governor's Order N-51-20, the employer may use those leave hours as a credit against SPSL hours.
- An employee who is an unable to work or telework may use SPSL due to the following:
 - Subject to quarantine or isolation by government orders due to COVID-19 or is caring for a family member who is quarantined or isolated due to COVID-19.
 - Advised by health care provide to self-quarantine due to COVID-19 or caring for a family member who is so advised by a health care provider.
 - Over the age of 65 or considered vulnerable due to a comprised immune system and chooses to take off work.
 - Employer or work location temporarily ceases operation due to a public health order or other public official recommendation.

- Experiencing COVID-19 symptoms and seeking a medical diagnosis
- Caring for a minor child due to school or daycare closure related to COVID-19.
- Employer may not require an employee use other leave balances before using SPSL or find a replacement.
- Employer may not issue discipline or attendance points based on a no-fault attendance policy for an employee's use of SPSL.
- If requested by employer, employee must provide basis for requesting SPSL however a doctor's note or other documentation is not required.
- Employer can require employee to follow reasonable notice procedures before providing SPSL if the employee's need is foreseeable.
- Employees properly using SPSL must be paid at their regular rate of pay except as follows:
 - The maximum amount of SPSL pay is \$511 per day with an aggregate of \$5,110 for the entire benefit.
 - Employees who use SPSL to care for a family member may be paid 2/3 of their regular pay with a maximum of \$200 per day and an aggregate of \$2,000 for the entire benefit.
- Employee is not entitled to unused SPSL which expires when the ordinance sunsets on March 31, 2021.

Complaints

- Violations of this chapter are subject to administrative penalties up to \$25,000 in accordance with Sacramento City Code Section 1.28.010.
- To report violations of this ordinance, please contact the **City Operator at 311 or 264-5011** from cell phones or out of area phones. Or, send an e-mail to 311@cityofsacramento.org.