



City of Chicago



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Office of the City Clerk

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Meeting Date: 4/22/2020

Sponsor(s): Lightfoot (Mayor)
Sawyer (6)
Sadlowski Garza (10)
Waguespack (32)
Villegas (36)

Type: Ordinance

Title: Amendment of Municipal Code Section 1-24-010 prohibiting employer retaliation for covered employees complying with public health orders

Committee(s) Assignment: Committee on Workforce Development



OFFICE OF THE MAYOR
CITY OF CHICAGO

LORI E. LIGHTFOOT
MAYOR

April 22, 2020

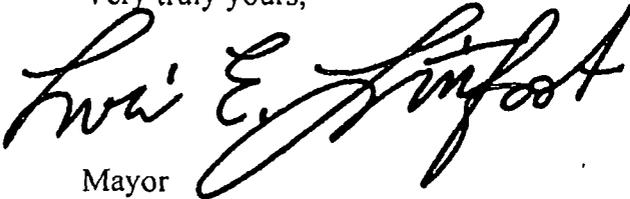
TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Business Affairs and Consumer Protection, I transmit herewith, together with Aldermen Sawyer, Garza, Waguespack and Villegas, an ordinance prohibiting employer retaliation and an associated technical correction to Chapter 1-24 of the Municipal Code.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,


Mayor

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

ARTICLE I. RETALIATION PROHIBITED

SECTION 1. Definitions. The definitions of Chapter 1-24 of the Municipal Code of Chicago are incorporated as if stated herein.

SECTION 2. Duty to allow Covered Employees to obey public health orders.

(a) An Employer shall not demote or terminate a Covered Employee for obeying an order issued by the Mayor, the Governor of Illinois, the Chicago Department of Public Health, or, in the case of subsections (a)(2), (3), and (4) below, a treating healthcare provider, requiring the Covered Employee to:

- (1) Stay at home to minimize the transmission of COVID-19;
- (2) Remain at home while experiencing COVID-19 symptoms or sick with COVID-19;
- (3) Obey a quarantine order issued to the Covered Employee;
- (4) Obey an isolation order issued to the Covered Employee; and
- (5) Obey an order issued by the Commissioner of Health regarding the duties of hospitals and other congregate facilities.

In addition, an Employer may not demote or terminate a Covered Employee for caring for an individual subject to subsections (a)(1) through (3) above.

(b) If an Employer demotes or terminates a Covered Employee for obeying the directive of the Mayor, the Governor of Illinois, the Chicago Department of Public Health, or a healthcare provider in violation of subsection (a), that shall be considered retaliation under Chapter 1-24 and the Commissioner may take action against the Employer to cure the violation and may institute an action in administrative hearings or a court of law against the Employer.

(c) It shall be an affirmative defense to a violation of this Section that an Employer relied on a reasonable interpretation of an order and, upon learning of the violation of this Section, it cured the violation within 30 days.

SECTION 3. The Covered Employee may recover in a civil action reinstatement of the Covered Employee to either the same position held before the retaliatory action or to an equivalent position, damages equal to three times the full amount of wages that would have been owed had the retaliatory action not taken place, as well as any other actual damages directly caused by the retaliatory action, together with costs and such reasonable attorney's fees as a court allows.

SECTION 4. The Commissioner of Public Health shall have the authority to promulgate rules necessary to implement the requirements of this ordinance.

ARTICLE II. MINIMUM WAGE ORDINANCE DRAFTING CORRECTION

SECTION 1. After the passage of the Management Ordinance, it was discovered that Section 1-24-010 contained a scrivener's error that erroneously removed groups previously subject to the paid sick leave portions of the Minimum Wage and Paid Sick Leave Ordinance. Accordingly, Section 1-24-010 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

1-24-010 Definitions.

For purposes of this chapter, the following definitions apply:

(Omitted text is unaffected by this ordinance)

"Covered Employee" means an Employee who, in any particular two-week period, performs at least two hours of work for an Employer while physically present within the geographic boundaries of the City. For purposes of this definition, time spent traveling in the City that is compensated time, including, but not limited to, deliveries, sales calls, and travel related to other business activity taking place within the City, shall constitute work while physically present within the geographic boundaries of the City; however, time spent traveling in the City that is uncompensated commuting time shall not constitute work while physically present within the geographic boundaries of the City. "Covered Employee" does not include any individual permitted to work: (a) as a camp counselor employed at a day camp if the camp counselor is paid a stipend on a onetime or periodic basis and, if the camp counselor is a minor, the minor's parent, guardian or other custodian has consented in writing to the terms of payment before the commencement of such employment; (b) while subject to subsection 4(a)(2) of the Minimum Wage Law, with the exception of the categories of Employees described in subsections 4(a)(2)(A) and 4(a)(2)(B) of the Minimum Wage Law, who shall be entitled to the Wages that their Employer shall otherwise pay under Section 1-24-020(b) and 1-24-030 above, whichever applies, as well as the overtime compensation described in Section 1-24-040; and (c) for any governmental entity other than the City and its Sister Agencies. Except as provided in (d)(i) and (d)(ii), "Covered Employee" does not include any individual permitted to work (a) for an Employer who has fewer than four Employees, with the exception that: (1)

(d)(i) all All Domestic Workers, including Domestic Workers employed by Employers with fewer than four Employees, shall be Covered Employees, if the individual meets the other requirements; and (2) for purposes of Section 1-24-045, any individual permitted to work by an Employer in an Occupation, regardless of the number of persons the Employer employs, shall be Covered Employees if the individual meets the other requirements;

(d)(ii) Employees who work in the following categories shall be Covered Employees under Section 1-24-045, (b A) as an outside salesman; (c B) as a member of a religious corporation or organization; (d C) at, and employed by, an accredited Illinois college or university at which the individual is a student who is covered under the Fair Labor Standards Act, as amended; (d D) for a motor carrier and with respect to whom the U.S. Secretary of Transportation has the power to establish qualifications and maximum hours of service under the provisions of Title 49 U.S.C. or the State of Illinois under Section 18b-105 (Title 92 of the Illinois Administrative Code, Part 395 - Hours of Service of Drivers) of the Illinois Vehicle Code; ~~(f) as a camp counselor employed at a day camp if the camp counselor is paid a stipend on a onetime or periodic basis and, if the camp counselor is a minor, the minor's parent, guardian or~~

~~other custodian has consented in writing to the terms of payment before the commencement of such employment; (g) while subject to subsection 4(a)(2) of the Minimum Wage Law, with the exception of the categories of Employees described in subsections 4(a)(2)(A) and 4(a)(2)(B) of the Minimum Wage Law, who shall be entitled to the Wages that their Employer shall otherwise pay under Section 1-24-020(b) and 1-24-030 above, whichever applies, as well as the overtime compensation described in Section 1-24-040; and (h) for any governmental entity other than the City and its Sister Agencies.~~

(Omitted text is unaffected by this ordinance)

ARTICLE III. EFFECTIVE DATE AND REPEAL

SECTION 1. This ordinance shall take effect immediately upon its passage and approval.

SECTION 2. Unless otherwise provided by ordinance, Article I of this ordinance shall be repealed of its own accord, without further action of the City Council, when the Commissioner of Public Health makes a written determination that the threat to public health posed by COVID-19 has diminished to the point that this ordinance can safely be repealed.