

ORDINANCE NO. _____

An ordinance adding Article 9 to Chapter XX of the Los Angeles Municipal Code to provide additional pay to grocery and drug retail workers on the frontlines of COVID-19.

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

Section. 1. Article 9 is added to Chapter XX of the Los Angeles Municipal Code to read as follows:

ARTICLE 9

**PREMIUM HAZARD PAY FOR ON-SITE GROCERY
AND DRUG RETAIL WORKERS**

SEC. 200.100. PURPOSE.

On March 4, 2020, as a result of the threat of the novel coronavirus (COVID-19), Governor Gavin Newsom proclaimed a State of Emergency in California and Mayor Eric Garcetti declared the existence of a local emergency in the City of Los Angeles. On March 11, 2020, the World Health Organization officially declared the outbreak a pandemic. Since that time, grocery and drug retail workers in the City of Los Angeles continue to report to work and serve their communities, despite the ongoing hazards and danger of being exposed to COVID-19. While many employees can choose to work from home, essential grocery and drug retail workers are on the frontlines of the pandemic—they must report to work to perform their jobs, which includes substantial interaction with the public and significant exposure to an infectious disease. The Center for Disease Control (CDC) reports that the virus spreads more readily indoors, and essential grocery and drug retail workers must perform their jobs inside, with large crowds. These workers live with daily fear of not only contracting COVID-19, but bringing it home to their families—often for low wages and minimal benefits.

Because of the sacrifice of these essential workers, families throughout the City continue to have access to the food and supplies they need during the pandemic. Grocery and drug retail workers ensure a strong supply chain by continuously restocking food and critical household items, including toilet paper, cleaning supplies, medicine, and other products necessary to maintain the safety, sanitation, and essential operation of residences. As a result of the pandemic, grocery and drug retail workers are tasked with responsibilities they did not have previously, including wearing masks, practicing social distancing, and constantly wiping down high touch areas, including cash registers, conveyer belts, and shopping carts for the public.

This year, the CDC reports that multiple COVID-19 variants are circulating globally that appear to spread more quickly and easily than other variants. As

coronavirus cases continue to spread throughout the City, the health threats grocery and drug retail workers face are as significant now as when the pandemic began. The risks are especially pronounced among employees who are Black, Indigenous, and People of Color because they are overrepresented among the retail frontline workforce and are disproportionately impacted by the pandemic, which has exposed and deepened social and economic inequalities.

According to a Brookings Institution analysis from November 2020, the top retail companies in the United States have earned record-breaking profits during the pandemic. In total, top retail companies earned on average an extra \$16.7 billion in profit in 2020, while stock prices were up an average of 33 percent. But this increase in profits has not transferred to the low-wage frontline workers who risk their lives to support the business operations. To the extent workers have received any hazard pay at all for performing life threatening work, such pay has been limited or inconsistent.

The importance of fair compensation for the risks the City's essential grocery and drug retail workers endure cannot be overstated, particularly at a time when many families are struggling financially, and workers face increased childcare costs as a result of remote learning and expensive healthcare bills if they become sick with COVID-19. Providing additional compensation to essential grocery and drug retail workers encourages them to continue their work to keep the food and supply chain operating.

Through this ordinance, the City seeks to justly compensate essential grocery and drug retail workers for their daily sacrifices and the ongoing danger they and their families face while providing vital services to the City's residents during the pandemic. By requiring premium hazard pay for their work during the COVID-19 pandemic, the City aims to protect the health and welfare of its essential grocery and drug retail workers, their families, and the community.

SEC. 200.101. DEFINITIONS.

The following definitions shall apply to this article:

- A. **"City"** means the City of Los Angeles.
- B. **"Employee"** means any individual who:
 - 1. In a particular week performs at least two hours of work within the geographic boundaries of the City for an Employer; and
 - 2. Qualifies as an Employee entitled to payment of a minimum wage from any Employer under the California minimum wage law, as provided under Section 1197 of the California Labor Code and wage orders published by the California Industrial Welfare Commission.

Employee does not include an exempt manager.

C. **“Employer”** means a person, as defined in section 18 of the California Labor Code, including a corporate officer or executive, that operates::

1. A grocery retail store with more than 300 employees nationwide, and more than ten Employees on-site in the City, that sells primarily food or household goods, including the sale of produce, meats, poultry, fish, deli products, dairy products, canned foods, dry foods, beverages, baked foods, and/or prepared foods; or

2. A drug retail store with more than 300 employees nationwide, and more than ten Employees on-site in the City, that sells a variety of prescription and nonprescription medicines and miscellaneous items, including, but not limited to, drugs, pharmaceuticals, sundries, produce, meats, poultry, fish, deli products, dairy products, canned foods, dry foods, beverages, prepared foods, and other merchandise; or

3. Any site of a retail store with more than 300 employees nationwide, and more than ten Employees on-site in the City, where:

a. The retail store has at least one site in the City over 85,000 square feet that:

i. Dedicates 10 percent or more of its sales floor to groceries, including, but not limited to, produce, meats, poultry, fish, deli products, dairy products, canned foods, dry foods, beverages, baked foods, and/or prepared foods; or

ii. Dedicates 10 percent or more of its sales floor to drug retail, including, but not limited to, drugs, pharmaceuticals, sundries, produce, meats, poultry, fish, deli products, dairy products, canned foods, dry foods, beverages, prepared foods, and other merchandise; and

b. The site:

i. Dedicates 10 percent or more of its sales floor to groceries, including, but not limited to, produce, meats, poultry, fish, deli products, dairy products, canned foods, dry foods, beverages, baked foods, and/or prepared foods; or

ii. Dedicates 10 percent or more of its sales floor to drug retail, including, but not limited to, drugs, pharmaceuticals, sundries, produce, meats, poultry, fish, deli products, dairy products, canned foods, dry foods, beverages, prepared foods, and other merchandise.

D. **“Premium Hazard Pay”** means additional compensation owed to an Employee in addition to the Employee’s other compensation, including, but not limited to, salaries, wages, tips, overtime, commissions, piece rate, bonuses, rest breaks, paid leave, and reimbursement for expenses.

SEC. 200.102. PREMIUM HAZARD PAY FOR ON-SITE GROCERY AND DRUG RETAIL EMPLOYEES.

An Employee shall be entitled to no less than five dollars per hour in Premium Hazard Pay for each hour worked on-site for an Employer in the City. If an Employer already provides hourly Premium Hazard Pay as of the effective date of this ordinance, such compensation may be credited against the additional five dollars per hour required by this section. In no event shall any Premium Hazard Pay provided prior to the effective date of this ordinance be credited as part of the compensation due under this section.

SEC. 200.103. 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 additional compensation owed 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. 200.104. ENFORCEMENT.

Any Employee aggrieved by a violation of this article may bring a civil action in a court of competent jurisdiction against the Employer violating this article. An Employee, upon prevailing, shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation, including, without limitation, the payment of any wages unlawfully withheld and/or injunctive relief, and shall be awarded attorney’s fees and costs.

SEC. 200.105. 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. 200.106. COEXISTENCE WITH OTHER AVAILABLE RELIEF FOR SPECIFIC DEPRIVATIONS OF PROTECTED RIGHTS.

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. 200.107. 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. 200.108. 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. 200.109. RULES AND REGULATIONS.

The Office of Wage Standards of the Bureau of Contract Administration shall promulgate Rules and Regulations that will be updated when necessary consistent with the article for further clarification of the provisions of this article. The Rules and Regulations shall be posted on WagesLA.lacity.org.

SEC. 200.110. SUNSET.

This article shall sunset 120 days after the effective date 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 reasons: Establishing a labor standard that requires Premium Hazard Pay for grocery and drug retail Employees is a subject of imminent concern in light of the current and continuing hazards of the COVID-19 pandemic. Grocery and drug retail workers have been working in hazardous environments for months, and continue to face significant risks in light of the rate of community transmission, the more contagious variants circulating globally, and the unavoidable working conditions they endure, including significant public contact every day. To promote the health and safety of the residents of the City of Los Angeles, 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 3/24/2017

File No. 20-1609

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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 _____