

Seattle City Council Approves Legislation Requiring Grocery Businesses to Provide \$4/Hour Hazard Pay

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On January 25, 2021, the Seattle City Council approved [Council Bill 119990](#) (also referred to as the “hazard pay ordinance”), which establishes \$4 per hour COVID-19 hazard pay for grocery employees working in the City of Seattle. Below is a chart summarizing the key provisions of the hazard pay ordinance.

Effective Date	The ordinance will be take effect immediately upon signature by Seattle mayor Jenny Durkan. Mayor Durkan expects to sign the ordinance on February 3.
Sunset Date	According to the City of Seattle’s press release accompanying the ordinance, hazard pay “will be in effect for the duration of the COVID-19 emergency, though Council may reconsider the legislation at the four month mark. This timeframe corresponds with the state department of health’s COVID vaccination plan to make vaccines available to all-aged grocery employees by April 2021.”
Entitlement to Hazard Pay	<p>Covered employers must pay \$4 per hour hazard pay for each hour worked in the City of Seattle, and may not reduce employee compensation to offset the temporary hazard pay.</p> <p>Employers that are already providing bona fide hazard pay may offset the \$4 per hour requirement with their existing programs (e.g., an employer already providing \$2 per hour hazard pay only needs to provide an additional \$2 per hour of hazard pay. Employers seeking to utilize offsets may want to closely review the language of the ordinance to ensure compliance.</p>
Covered Employees	The ordinance covers nonexempt employees working in the City of Seattle for a “grocery business.” The ordinance does not apply to gig workers.
Covered Employ	The ordinance applies to a “grocery business” (defined below) employing “500

ers—500-Employ ee Threshold	<p>or more employees worldwide regardless of where those employees are employed.”</p> <p>The 500-employee threshold includes virtually all persons working for the company, including exempt, nonexempt, full-time, and part-time employees. Employers may want to review the ordinance for details on calculating headcount.</p>
Covered Employ ers—Definition of “Grocery Business”	<p>Under the ordinance, the definition of “grocery business” includes two types of grocers:</p> <ol style="list-style-type: none"> 1. Traditional Grocers. A retail store that is “[o]ver 10,000 square feet in size and that is primarily engaged in retailing groceries for offsite consumption, including but not limited to the sale of fresh produce, meats, poultry, fish, deli products, dairy products, canned and frozen foods, dry foods, beverages, baked foods, and/or prepared foods. Other household supplies or other products shall be secondary to the primary purpose of groceries sales;” or 2. Box Stores Selling Groceries. A retail store that is “[o]ver 85,000 square feet and with 30 percent or more of its sales floor area dedicated to sale of groceries, including but not limited to the sale of fresh produce, meats, poultry, fish, deli products, dairy products, canned and frozen foods, dry foods, beverages, baked foods, and/or prepared foods.”
Covered Employers—Excluded Employers	<p>According to the ordinance, a grocery business “does not include convenience s food marts primarily engaged in retailing a limited line of goods that generally include milk, bread, soda, and snacks.” In addition, a grocery business “does not include farmers’ markets.”</p>
Effect on Paid Sick Leave	<p>When calculating an employee’s rate of pay under Seattle’s Paid Sick and Safe Ordinance, “hazard pay is considered a premium rate and is not included in the employee’s normal hourly compensation.”</p>
Required Notices—Wages	<p>Within 30 days of the ordinance’s effective date, employers must provide a revised notice under Seattle Municipal Code subsection 14.20.025.D. The notice must include employee’s entitlement to hazard pay and indicate whether the employer will be applying any offsets.</p> <p>For payroll purposes, hazard pay must be itemized “separately from payment for wages and other compensation.”</p>
Required Notices—Posters	<p>Also within 30 days of the effective date of the ordinance, employers must post a conspicuous and accessible notice in their employees’ primary language(s), which “provid[es] information on:</p>

	<ol style="list-style-type: none"> 1. The right to hazard pay guaranteed by the ordinance; 2. The right to be protected from retaliation for exercising in good faith the rights protected by this ordinance; and 3. The right to file a complaint with the [Office of Labor Standards] or bring a civil action for a violation of the requirements of this ordinance, including an employer's denial of hazard pay as required by this ordinance and an employer or other person's retaliation against an employee or other person for asserting the right to hazard pay or otherwise engaging in an activity protected by this ordinance." <p>Employers can satisfy their notice requirements through electronic means. The City of Seattle did not commit to distributing its own poster regarding the rights created by the hazard pay ordinance. While the city may distribute a poster, it may not be available within 30 days, and employers may want to prepare to distribute their own notice.</p>
Recordkeeping	<p>According to the ordinance, employers must keep records of hazard payments for three years. Without records, the City of Seattle will impose a rebuttable presumption that the employer violated the ordinance for the periods and for each employee for whom records were not retained."</p>

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