

D.C. Council Passes ‘Protecting Businesses and Workers from COVID-19’ Declaration for 2021

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To ensure emergency legislation protecting businesses and workers in the District of Columbia does not lapse, the D.C. Council has passed the “Protecting Businesses and Workers from COVID-19 Congressional Review Emergency Declaration Resolution of 2021.” Accordingly, until further notice, employers must continue to implement social distancing policies and enforce mask-wearing requirements in the workplace. The Resolution also continues the prohibition on workplace retaliation.

This Resolution extends the “[Protecting Businesses and Workers from COVID-19 Emergency Amendment Act of 2020](#)” (Act) enacted in August 2020 and set to expire on February 13, 2021.

Employers with employees in the District of Columbia should be sure to maintain compliance with D.C. law by adhering to the Act’s requirements discussed below.

Employee Protections in the Workplace

The Act requires employers to adopt and implement social distancing and workplace protection policies to prevent the transmission of COVID-19. Among those policies, employers must provide masks to their employees. Businesses that are open to the public must post signage on their exterior doors stating a person may not enter unless the person is wearing a mask. Additionally, the business must exclude or attempt to remove persons who are not wearing masks.

Additionally, employers may establish policies that require employees to report a positive COVID-19 test, provided the employer does not disclose the identity of an employee who tested positive. The exception to this rule is that employers may report employee test results to the Department of Health or other agencies responsible for contact tracing and containment.

Anti-Retaliation Provision

The Act also includes an anti-retaliation provision that prevents employers from taking adverse action against employees who:

1. Refuse to service customers or clients or work within six feet of an individual who is not complying with the above workplace protections;
2. Have tested positive for COVID -19 or have been exposed to someone with COVID-19 and need to quarantine;
3. Are sick and waiting for COVID-19 test results;
4. Are caring for someone who is sick with COVID-19; or
5. Attempt to exercise any right under Title I of the D.C. Code (DC's COVID-19 Workplace Safety Protections).

However, employers may prohibit employees who have tested positive for COVID-19 from entering the workplace until a medical professional has cleared the employee to return or until the quarantine period, as recommended by the Department of Health or Centers for Disease Control and Prevention, has elapsed.

What Employers Need to Know: Enforcement

The Mayor may enforce these provisions by conducting investigations, holding hearings, and assessing penalties. The Mayor may assess penalties up to \$50 per violation per employee per day for violating the workplace protection provision. The Mayor also may assess penalties up to \$500 for violating the anti-retaliation provision.

In addition to the Mayor's ability to enforce these provisions, the Attorney General has the authority to conduct enforcement litigation and seek reasonable attorney's fees and costs, lost wages, and other equitable relief.

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