

# **Santa Ana Enacts Premium Pay Ordinance for Large-Chain Grocery Store and Retail Pharmacy Workers**

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On March 2, 2021, the City Council of Santa Ana, California, passed an [urgency ordinance](#) establishing premium pay for grocery and retail pharmacy workers during the COVID-19 pandemic. Santa Ana is the county seat of Orange County, located southeast of Los Angeles. The ordinance requires that large grocery stores and pharmacies in Santa Ana provide their workers with premium pay of \$4.00 for each hour worked. The ordinance went into effect on March 3, 2021, and will expire on June 30, 2021.

## **Covered Employers and Employees**

The ordinance defines covered employers as grocery store or retail pharmacy “hiring entities” that employ more than 300 workers nationally and more than 15 employees per grocery store or pharmacy in the City of Santa Ana. The ordinance defines “grocery store” as “a store that devotes [70] percent ... or more of its business to retailing a general range of food products, which may be fresh or packaged, and/or a store that has at least [15,000] square feet ... of floor space dedicated to retailing a general range of food products.” The ordinance defines “retail pharmacy” as “a corporate or chain (three or more locations nationally) pharmacy or publicly-traded company that is licensed as a pharmacy by the State of California and that dispenses medications to the general public at retail prices.”

The ordinance applies to grocery or pharmacy workers who are hourly employees of a covered grocery store or pharmacy. Unlike other ordinances, the Santa Ana ordinance does not include a carve-out for managers or supervisors.

## **Worker Protections**

The ordinance prohibits an employer from reducing a covered employee’s compensation or limiting a covered employee’s earning capacity as a result of this ordinance. If an employer reduces a covered employee’s compensation or limits an employee’s earning capacity (such as by moving the employee to a part-time position), the employer must demonstrate that it would have taken the same action had the Santa Ana City Council never passed the ordinance. The ordinance also prohibits

employers from retaliating against covered workers who exercise their rights under the ordinance.

## **Notice Requirements**

The ordinance requires that employers notify covered workers in writing about their rights. The notice must include information regarding (a) the right to premium pay guaranteed by the ordinance; (b) the right to be protected from retaliation; and (c) the right to bring a civil action for an employer's violation of the ordinance. Employers must post the required notice in a location that employees use for breaks, as well as in an electronic format accessible to the covered workers via a smartphone application or an online web portal. Employers must provide the notice in English and any language known by the employers to be the covered workers' primary language.

## **Records Retention**

Employers must keep records demonstrating compliance with the ordinance for at least two years. An employer's failure to do so will result in a rebuttable presumption that the employer "violated this [o]rdinance for each covered designated worker for whom records were not retained."

## **Collective Bargaining Agreements**

A collective bargaining agreement can waive the ordinance's application, "but only if the waiver is explicitly set forth in the agreement in clear and unambiguous terms."

## **Enforcement**

The ordinance creates a private right of action for covered workers who suffer either financial injury or retaliation because of violations of the ordinance. The ordinance also authorizes attorneys' fees and costs for employees who successfully pursue such civil actions.

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