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2 Councilmember Mary M. Cheh

Councilmember Elissa Silverman

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6 Councilmember Brianne K. Nadeau

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18 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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21 To declare the existence of an emergency with respect to the need to require employers to adopt
22 and implement social distancing policies that adhere to all applicable Mayor's Orders
23 related to the COVID-19 public health emergency, to prohibit retaliation against an
24 employee for taking actions related to complying with, stopping a violation of, or
25 complaining about an employer's actions related to applicable COVID-19 health and
26 safety laws and practices, testing positive or quarantining because of COVID-19, or
27 caring for someone who has COVID-19 symptoms or is quarantining because of COVID-
28 19, to prohibit an employer from prohibiting or discouraging an employee's use or
29 wearing of personal protective equipment and from requiring an employee to agree or to
30 comply with a workplace policy not to disclose information about workplace safety
31 related to COVID-19, to establish a rebuttable presumption that an employer who takes
32 an adverse employment action within 60 days after an employee engages in protected
33 activity took the action in retaliation for the employee's protected activity, to authorize
34 the Mayor to administer and enforce the workplace and employee protections in Title I of
35 this act by receiving complaints, conducting investigations, and issuing civil fines, to
36 authorize the Attorney General to enforce the workplace and employee protections in
37 Title I of this act by receiving complaints, conducting investigations, and bringing civil
38 actions in a court of competent jurisdiction, to authorize a private right of action to
39 enforce title I of this act, to require employers to post notice of employees' rights under
40 Title I of this act upon publication of such notice by the Mayor, to permit federal laws,
41 policies, and standards to preempt Title I of this act; to authorize the Chief Procurement
42 Officer to enter into an indefinite duration/indefinite quantity contract to assist eligible
43 businesses in the purchase of personal protective equipment and other supplies related to
44 the containment of COVID-19; to amend the Small and Certified Business Enterprise Act
45 of 2005 to authorize the Mayor to issue grants for small businesses to purchase or receive
46 reimbursements for the purchase of personal protective equipment for their employees; to

47 amend the District of Columbia Government Comprehensive Merit Personnel Act of
48 1978 to include COVID-19 as a compensable injury if contracted in the course and scope
49 of employment; and to amend the Workers' Compensation Act of 1979 to include
50 COVID-19 as a compensable injury if contracted in the course and scope of employment.
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53 RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
54 resolution may be cited as the "Workplace Safety During the COVID-19 Pandemic Emergency
55 Declaration Resolution of 2021".

56 Sec.2. (a) There exists an immediate need to augment existing workplace safety
57 protections as the District continues to reopen for business following the declaration of the
58 COVID-19 public health emergency in the District by Mayor's Order 2020-045 on March 11,
59 2020. Over 35,000 District residents have contracted COVID-19, and sadly, almost a thousand
60 residents have perished from the virus. Although a vaccine has been identified and is being
61 distributed to residents 65 and older and others at high risk, it still is not widely available to
62 most. Because of this, we do not know when the pandemic will end, and workers and businesses
63 require additional protections to mitigate the impact of the virus on our businesses and workers,
64 and even our economy.

65 (b) The Council passed emergency and temporary measures that became effective in July
66 and December of 2020, respectively. The existing law has enhanced business and worker safety
67 in the District but does not address additional issues now known to the Council. Additionally, the
68 current law can be improved to incorporate best practices. Given the urgency and dire health and
69 safety consequences of working during the pandemic, additional emergency legislation is
70 necessary.

71 (c) Current law requires employers to comply with the Mayor's Mask Order 2020-80 and
72 subsequent measures but does not include other Mayor's orders pertinent and critical to

73 workplace safety during the COVID-19 pandemic that address social distancing, other personal
74 protective equipment, or other matters.

75 (d) Current law requires employers to post a notice in workplaces stating the requirement
76 to wear masks, but the notice does not include other important information about the District's
77 COVID-19 workplace safety laws or information specifying where workers can report a
78 violation.

79 (e) The freedom to discuss safety issues without fear of retaliation is essential to worker
80 safety, consumer confidence, the operational stability of employers, and the success of the
81 District's economic recovery. The ability to engage in broad discussion of safety issues without
82 fear of retaliation is the only way for employers and employees to share awareness and maintain
83 operations.

84 (f) Gaps in the current law exist because while the law permits the Mayor and Attorney
85 General to enforce workplace safety protocols and prohibitions against retaliation, it does not
86 include or protect the right of employees to broadly discuss the safety of their workplace, or to
87 access the courts if retaliated against in an unlawful manner.

88 (e) The Federal Occupational Safety and Health Administration has provided an easily
89 accessible digital home for worker complaints on their website. However, District workers have
90 no easily accessible place to complain of COVID-19 workplace safety violations and have
91 reported confusion about who to contact and how to report a COVID-19 workplace safety issue.
92 Several other states provide the public with information on violations of COVID-related safety
93 laws, but the District does not publish such information.

94 (g) Workers' compensation is a critical protection for workers who are injured or
95 sickened on the job. District law is silent on the treatment of COVID-19 in both the District's

96 public and private sector workers' compensation programs. There is a need to remove ambiguity
97 and confirm that COVID-19 is a compensable illness if contracted through the regular course of
98 work. Seventeen states and Puerto Rico have taken action to extend workers' compensation
99 coverage to workers who contract COVID-19 while working.

100 (h) Current District regulations state that an employee may be eligible for unemployment
101 benefits if a workplace is unsafe, however current law is silent on this matter. Codifying this
102 right will ensure the continuation of this policy in the future and help educate workers on this
103 right.

104 Sec. 3. The Council of the District of Columbia determines that the circumstances
105 enumerated in section 2 constitute emergency circumstances making it necessary that the
106 "Workplace Safety During the COVID-19 Pandemic Emergency Declaration Resolution of
107 2021" be adopted after a single reading.

108 Sec. 4. This resolution shall take effect immediately.