



Memorandum

TO: RULES AND OPEN
GOVERNMENT COMMITTEE

FROM: Councilmember Jimenez

SUBJECT: Hazard Pay for Retail Food Workers

DATE: January 21, 2021

Approved

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RECOMMENDATION

1. Direct the City Attorney to draft an urgency ordinance requiring hazard pay for retail food workers. The ordinance shall:
 - a. Guarantee hazard pay of an additional five dollars an hour for retail food workers;
 - b. Apply to retail establishments that sell meats, poultry, dairy products, fresh fruits and vegetables and have at least 300 employees nationwide;
 - c. Allow for a private right of action;
 - d. Include a credit for retail establishments that currently provide pay increases related to the COVID-19 pandemic;
 - e. Commence immediately upon Council approval and continue until the Santa Clara County Health Officer has lifted mandatory directives for implementing the State's Regional Stay at Home Order related to the COVID-19 pandemic.
2. Place the item on the February 2, 2021 Council Agenda for action.

BACKGROUND

The global pandemic has illustrated the importance of essential workers to our communities and economy. Alongside doctors and nurses, retail food workers have served the residents of San José while taking on tremendous risks. The continuous danger of being exposed to COVID-19 among these workers is evident, with many stores reporting virus breakouts and even deaths. As our local businesses- most notably restaurants- were forced to shut down, supermarkets and other retailers that sell food were allowed to remain open, resulting in significant increases in profits since the beginning of the pandemic. Hazard pay is necessary to justly compensate retail food workers for the clear and present dangers of doing their jobs during the pandemic, ensure the welfare of workers, and continue stable operation of our much-needed food supply chain.

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This ordinance should apply to corporate grocery stores, chain supermarkets, and retail stores that sell groceries and employ at least 300 workers total nationwide. Many retailers not traditionally considered grocery stores have remained open during the pandemic because they sell food. These types of businesses have profited significantly from the pandemic, and their workers have experienced increased risks of exposure to COVID-19. Therefore, they also should be included. Given that this pandemic has had a disproportionate impact on small and local businesses, I am not seeking to apply this ordinance to small neighborhood grocers with less than 300 employees nationwide. As with other City ordinances, such as Paid Sick Leave, including a private right to action may help alleviate concerns of enforcement given our stretched staff capacity.

At the beginning of the pandemic, some grocers voluntarily instituted increased wages and one-time bonuses in the form of "Hero Pay" or "Appreciation Pay". Unfortunately, for most workers, these increases ended in the late spring despite the fact that the pandemic has surged and the risk of a COVID-19 infection is at its worst levels. For those retailers that have done right by their employees in keeping pay increases, they should receive a credit for these funds. For example, an employer currently providing an additional \$2.50 per hour in COVID-19 related pay would need to provide an additional \$2.50 for a total of \$5.00 to come into compliance with this ordinance.

An urgency ordinance instituting hazard pay for retail food workers is most appropriate at this time because COVID-19 infection rates are at their highest levels, our region's ICU capacity is concerningly low, vaccines are terrifyingly scarce, and the pandemic surge has provoked indefinite stay at home orders across the State. Hazard pay should remain in place until the County lifts its mandatory directives based on infection rates and ICU capacity. Cities across the state, Long Beach, Berkeley and Los Angeles have already implemented or are considering similar ordinances.

Let us remember that those workers who put their lives on the line to provide us with food and services do so out of need to care for themselves and their families. This is our opportunity to demonstrate to them that we acknowledge their contributions, respect and appreciate their courage, and most importantly value their worth.