

CITY OF BALTIMORE
ORDINANCE **20.480**
Council Bill 20-0544

Introduced by: Councilmembers Burnett, Bullock, President Scott, Councilmembers Henry,
Dorsey, Middleton, Sneed

Introduced and read first time: June 15, 2020

Assigned to: Labor Committee

Committee Report: Favorable with amendments

Council action: Adopted

Read second time: September 21, 2020

AN ORDINANCE CONCERNING

COVID-19 Laid-Off Employees Right of Recall

FOR the purpose of requiring certain employers to recall certain employees who have been laid off after the imposition of the COVID-19 state of emergency; specifying the procedures by which the recall would operate; prohibiting retaliation against employees for seeking assistance from, or cooperating with, the Wage Commission; empowering the Wage Commission to issue subpoenas and administer oaths; establishing certain procedures for the administration of complaints by the Wage Commission; requiring certain reports; defining certain terms; establishing certain penalties; and providing for a special effective date; and providing for a termination date.

BY adding

Article 11 - Labor and Employment

Section(s) 19A-1 through 19A-13, to be under the new subtitle,

“Subtitle 19A. COVID-19 Laid-Off Employees Right of Recall”

Baltimore City Code

(Edition 2000)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article 11. Labor and Employment

SUBTITLE 19A. COVID-19 LAID-OFF EMPLOYEES RIGHT OF RECALL

§ 19A-1. DEFINITIONS.

(A) *IN GENERAL.*

IN THIS SUBTITLE, THE FOLLOW TERMS HAVE THE MEANINGS INDICATED.

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

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1 (B) *COMMERCIAL PROPERTY EMPLOYER.*

2 "COMMERCIAL PROPERTY EMPLOYER" MEANS AN OWNER, OPERATOR, MANAGER, OR
3 LESSEE, INCLUDING A CONTRACTOR, SUBCONTRACTOR, OR SUBLESSEE, OF A NON-
4 RESIDENTIAL PROPERTY IN THE CITY THAT EMPLOYS 25 OR MORE JANITORIAL,
5 MAINTENANCE, OR SECURITY SERVICE EMPLOYEES.

6 (C) *COMMISSION.*

7 "COMMISSION" MEANS THE WAGE COMMISSION ESTABLISHED BY § 2-1 {"COMMISSION
8 ESTABLISHED"} OF THIS ARTICLE, OR THE COMMISSION'S DESIGNEE.

9 (D) *CUSTOMARY SEASONAL WORK.*

10 "CUSTOMARY SEASONAL WORK" MEANS WORK PERFORMED BY AN EMPLOYEE DURING
11 APPROXIMATELY THE SAME SEASON OF A CALENDAR YEAR, SUCH AS SUMMER OR WINTER.

12 (E) ~~(D)~~ *EMPLOYER.*

13 (1) *IN GENERAL.*

14 "EMPLOYER" MEANS A PERSON THAT IS ANY OF THE FOLLOWING, AS DEFINED IN THIS
15 SECTION:

16 (I) ~~(1)~~ A COMMERCIAL PROPERTY EMPLOYER;

17 (II) ~~(2)~~ AN EVENT CENTER EMPLOYER; OR

18 (III) ~~(3)~~ A HOTEL EMPLOYER.

19 (2) *EXCLUSION.*

20 "EMPLOYER" DOES NOT INCLUDE A HOSPITAL AS DEFINED IN STATE HEALTH-GENERAL
21 ARTICLE, § 19-301 {"DEFINITIONS: HOSPITAL"}.

22 (F) ~~(E)~~ *EVENT CENTER EMPLOYER.*

23 (1) *IN GENERAL.*

24 "EVENT CENTER EMPLOYER" MEANS AN OWNER, OPERATOR, OR MANAGER OF A
25 PUBLICLY OR PRIVATELY OWNED STRUCTURE WITHIN THE CITY THAT:

26 (I) IS USED FOR PUBLIC PERFORMANCES, SPORTING EVENTS, BUSINESS MEETINGS,
27 OR SIMILAR EVENTS; AND

28 (II) EITHER:

29 (A) IS 50,000 SQUARE FEET OR MORE IN TOTAL AREA; OR

30 (B) HAS A SEATING CAPACITY OF 1,000 SEATS OR MORE.

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1 (2) *INCLUSIONS.*

2 (I) AN "EVENT CENTER EMPLOYER" INCLUDES A CONCERT HALL, STADIUM, ARENA,
3 RACETRACK, AND CONVENTION CENTER.

4 (II) AN "EVENT CENTER EMPLOYER" ALSO INCLUDES ANY CONTRACTED, LEASED, OR
5 SUBLET PREMISES CONNECTED TO OR OPERATED IN CONJUNCTION WITH THE EVENT
6 CENTER'S PURPOSE, SUCH AS FOOD PREPARATION FACILITIES, CONCESSIONS,
7 RETAIL STORES, RESTAURANTS, BARS, AND STRUCTURED PARKING FACILITIES.

8 (3) *EXCLUSION.*

9 "EVENT CENTER EMPLOYER" DOES NOT INCLUDE THE MARYLAND STADIUM
10 AUTHORITY.

11 (G) ~~(F)~~ *HOTEL EMPLOYER.*

12 (1) *IN GENERAL.*

13 "HOTEL EMPLOYER" MEANS THE OWNER, OPERATOR, OR MANAGER OF A PUBLICLY OR
14 PRIVATELY OWNED STRUCTURE THAT:

15 (I) IS USED FOR PUBLIC LODGING OR OTHER RELATED SERVICE FOR THE PUBLIC;
16 AND

17 (II) EITHER:

18 (A) CONTAINS 50 OR MORE GUEST ROOMS; OR

19 (B) HAS EARNED GROSS RECEIPTS IN THE 2019 TAX YEAR EXCEEDING \$5
20 MILLION.

21 (2) *INCLUSIONS.*

22 A "HOTEL EMPLOYER" INCLUDES THE OWNER, OPERATOR, MANAGER, OR LESSEE OF
23 ANY FOOD SERVICE FACILITY, AS DEFINED IN § 6-101(D) {"DEFINITIONS: FOOD
24 SERVICE FACILITY"} OF THE CITY HEALTH CODE, THAT IS PHYSICALLY LOCATED ON
25 THE HOTEL EMPLOYER'S PREMISES.

26 (H) ~~(G)~~ *LAI-D-OFF EMPLOYEE.*

27 (1) *IN GENERAL.*

28 "LAI-D-OFF EMPLOYEE" MEANS AN INDIVIDUAL:

29 (I) WHO HAD A LENGTH OF SERVICE WITH AN EMPLOYER OF 90 DAYS OR MORE IN
30 THE 12 MONTHS PRECEDING THEIR MOST RECENT SEPARATION FROM ACTIVE
31 SERVICE OR FAILURE TO BE SCHEDULED FOR CUSTOMARY SEASONABLE WORK
32 FROM THAT EMPLOYER;

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1 (II) WHO PERFORMED, IN A PARTICULAR WORKWEEK, AT LEAST 2 HOURS OF WORK
2 WITHIN BALTIMORE CITY FOR THAT EMPLOYER; AND

3 (III) WHOSE MOST RECENT SEPARATION FROM THAT EMPLOYER FROM ACTIVE
4 SERVICE OR FAILURE TO BE SCHEDULED FOR CUSTOMARY SEASONAL WORK
5 OCCURRED ON OR AFTER MARCH 5, 2020, AS A RESULT OF A LACK OF BUSINESS,
6 A REDUCTION IN WORKFORCE, OR ANY OTHER ECONOMIC AND NON-
7 DISCIPLINARY REASON.

8 (2) *PRESUMPTION REGARDING TERMINATIONS AFTER MARCH 5, 2020.*

9 THERE IS A REBUTTABLE PRESUMPTION OF FACT THAT ANY TERMINATION OCCURRING
10 ON OR AFTER MARCH 5, 2020 WAS DUE TO A NON-DISCIPLINARY REASON.

11 (3) *EXCLUSIONS.*

12 "LAID-OFF EMPLOYEE" DOES NOT INCLUDE ANY INDIVIDUAL WHO WAS, PRIOR TO HIS
13 OR HER SEPARATION, A MANAGERIAL, SUPERVISORY, OR CONFIDENTIAL EMPLOYEE.

14 (4) *LIMITATION.*

15 WITH RESPECT TO COMMERCIAL PROPERTY EMPLOYER, "LAID-OFF EMPLOYEE" IS
16 LIMITED TO ONLY THE SEPARATED JANITORIAL, MAINTENANCE, OR SECURITY SERVICE
17 EMPLOYEES OF THE COMMERCIAL PROPERTY EMPLOYER.

18 ~~(I)~~ ~~(H)~~ *LENGTH OF SERVICE.*

19 "LENGTH OF SERVICE" MEANS THE AGGREGATE TOTAL PERIOD OF TIME DURING WHICH A
20 LAID-OFF EMPLOYEE HAD BEEN IN ACTIVE SERVICE TO AN EMPLOYER, INCLUDING PERIODS
21 OF TIME WHEN THE LAID-OFF EMPLOYEE WAS ON LEAVE OR ON VACATION.

22 ~~(J)~~ ~~(I)~~ *PERSON.*

23 "PERSON" MEANS:

24 (1) AN INDIVIDUAL;

25 (2) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, LLC, OR OTHER ENTITY OF
26 ANY KIND; OR

27 (3) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR
28 REPRESENTATIVE OF ANY KIND.

29 § 19A-2. *{RESERVED}*

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1 § 19A-3. RIGHT OF RECALL.

2 (A) *IN GENERAL.*

3 AN EMPLOYER SHALL MAKE AN OFFER TO A LAID-OFF EMPLOYEE FOR ANY POSITION
4 WHICH IS OR BECOMES AVAILABLE FOR WHICH THE LAID-OFF EMPLOYEE IS QUALIFIED AS
5 DESCRIBED IN SUBSECTION (B) OF THIS SECTION.

6 (B) *IMPLEMENTATION.*

7 (1) *IN GENERAL.*

8 A LAID-OFF EMPLOYEE IS QUALIFIED AND MUST BE OFFERED A POSITION WITH THE
9 EMPLOYER UNDER THIS SECTION IF THE LAID-OFF EMPLOYEE:

10 (I) HELD THE SAME OR SIMILAR POSITION AT THE SAME SITE OF EMPLOYMENT AT
11 THE TIME OF THE LAID-OFF EMPLOYEE'S MOST RECENT SEPARATION FROM
12 ACTIVE SERVICE WITH THE EMPLOYER; OR

13 ~~(II) COULD BECOME QUALIFIED IF PROVIDED WITH THE SAME TRAINING THAT~~
14 ~~WOULD BE PROVIDED TO A NEW WORKER HIRED INTO THE POSITION.~~

15 (II) HAS PRIOR EXPERIENCE WITHIN THE POSITION OR HAS THE SAME SKILLS
16 REQUIRED BY THE POSITION AND WOULD NOT REQUIRE ADDITIONAL TRAINING.

17 (2) *PRIORITY.*

18 IF MORE THAN 1 LAID-OFF EMPLOYEE IS ENTITLED TO PREFERENCE FOR A POSITION,
19 THE EMPLOYER SHALL:

20 (I) FIRST OFFER THE POSITION, IN ORDER OF SENIORITY BY LENGTH OF SERVICE, TO
21 THOSE LAID-OFF EMPLOYEES DESCRIBED IN PARAGRAPH (1)(I) OF THIS
22 SUBSECTION; AND

23 (II) THEN OFFER THE POSITION, IN ORDER OF SENIORITY BY LENGTH OF SERVICE, TO
24 THOSE LAID-OFF EMPLOYEES DESCRIBED IN PARAGRAPH (1)(II) OF THIS
25 SUBSECTION.

26 (3) *MULTIPLE OFFERS.*

27 AN EMPLOYER MAY MAKE SIMULTANEOUS, CONDITIONAL OFFERS OF EMPLOYMENT TO
28 MULTIPLE LAID-OFF EMPLOYEES, WITH ANY FINAL OFFERS OF EMPLOYMENT
29 CONDITIONED ON APPLICATION OF THE PRIORITY SET FORTH IN § 19A-3(B)(2) OF THIS
30 SUBTITLE.

31 (4) ~~(3)~~ *ACCEPTANCE OF OFFER.*

32 A LAID-OFF EMPLOYEE WHO IS OFFERED A POSITION UNDER THIS SECTION SHALL BE
33 GIVEN AT LEAST 5 BUSINESS DAYS IN WHICH TO ACCEPT OR DECLINE THE FINAL OFFER.

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1 § 19A-4. *{RESERVED}*

2 § 19A-5. **RETALIATION PROHIBITED.**

3 (A) *IN GENERAL.*

4 AN EMPLOYER MAY NOT DISCHARGE OR REDUCE THE COMPENSATION OF ANY EMPLOYEE
5 FOR:

6 (1) MAKING A COMPLAINT TO THE COMMISSION ALLEGING A VIOLATION OF THIS
7 SUBTITLE; OR

8 (2) PARTICIPATING IN ANY OF THE COMMISSION'S PROCEEDINGS CONCERNING AN
9 ALLEGED VIOLATION OF THIS SUBTITLE.

10 (B) *REMEDIAL ACTION FOR VIOLATION.*

11 IF THE COMMISSION FINDS THAT AN EMPLOYER HAS VIOLATED SUBSECTION (A) OF THIS
12 SECTION IT MAY, PURSUANT TO THE PROCEDURES PROVIDED IN § 19A-7 {"ENFORCEMENT
13 PROCEDURES"} OF SUBTITLE, ORDER APPROPRIATE RESTITUTION OR THE REINSTATEMENT
14 OF THE EMPLOYEE WITH BACKPAY TO THE DATE OF THE VIOLATION.

15 § 19A-6. *{RESERVED}*

16 § 19A-7. **ENFORCEMENT PROCEDURES.**

17 (A) *FILING COMPLAINTS.*

18 ANY PERSON SUBJECTED TO A PRACTICE IN VIOLATION OF THIS SUBTITLE, OR ANY GROUP
19 OR PERSON SEEKING TO ENFORCE THIS SUBTITLE, MAY FILE A WRITTEN COMPLAINT WITH
20 THE COMMISSION.

21 (B) *COMPLAINT REQUIREMENTS.*

22 A COMPLAINT FILED UNDER THIS SECTION MUST:

23 (1) BE FILED WITHIN 1 YEAR OF THE ALLEGED VIOLATION;

24 (2) BE FILED UNDER OATH; AND

25 (3) INCLUDE:

26 (I) THE PARTICULARS OF THE ALLEGED VIOLATION;

27 (II) THE NAME AND ADDRESS OF THE PERSON ALLEGED TO HAVE COMMITTED
28 THE VIOLATION; AND

29 (III) ANY OTHER INFORMATION REQUIRED BY THE COMMISSION.

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1 (C) *COMPLAINTS BY COMMISSION.*

2 THE COMMISSION, ACTING ON ITS OWN INITIATIVE AND WITHOUT ANY COMPLAINT FROM A
3 LAID-OFF EMPLOYEE, MAY ITSELF FILE A COMPLAINT AGAINST AN EMPLOYER WHENEVER
4 THE COMMISSION HAS REASONABLE CAUSE TO BELIEVE THAT THE EMPLOYER IS OR HAS
5 BEEN IN VIOLATION OF THIS SUBTITLE.

6 (D) *INVESTIGATION FOR PROBABLE CAUSE.*

7 AFTER THE FILING OF A COMPLAINT, EITHER BY A PERSON CLAIMING TO BE AGGRIEVED AS
8 SET FORTH ABOVE OR BY THE COMMISSION, THE COMMISSION MUST:

9 (1) INVESTIGATE THE FACTS ALLEGED IN THE COMPLAINT; AND

10 (2) MAKE A FINDING OF PROBABLE CAUSE OR LACK OF PROBABLE CAUSE FOR THE
11 COMPLAINT.

12 (E) *SUBPOENAS; OATHS.*

13 (1) IN ENFORCING THIS SUBTITLE, THE COMMISSION MAY:

14 (I) ISSUE SUBPOENAS TO COMPEL THE ATTENDANCE AND TESTIMONY OF
15 WITNESSES AND THE PRODUCTION OF BOOKS, PAPERS, RECORDS, AND
16 DOCUMENTS RELATING TO PAYROLL RECORDS, OR OTHERWISE NECESSARY FOR
17 HEARINGS, INVESTIGATIONS, OR PROCEEDINGS; AND

18 (II) ADMINISTER OATHS, SUBJECT TO THE PENALTIES FOR PERJURY, TO ALL
19 WITNESSES.

20 (2) ANY SUBPOENA ISSUED UNDER THIS SUBSECTION SHALL BE SERVED BY:

21 (I) THE SHERIFF OF BALTIMORE CITY OR ANY OF THE SHERIFF'S DEPUTIES; OR

22 (II) ANY OTHER PERSON AUTHORIZED BY THE MARYLAND RULES OF PROCEDURE
23 TO EFFECTUATE IN PERSONAM SERVICE.

24 (F) *SUBPOENA ENFORCEMENT.*

25 (1) IN CASE OF DISOBEDIENCE TO A SUBPOENA, THE COMMISSION MAY APPLY TO A COURT
26 OF APPROPRIATE JURISDICTION FOR AN ORDER REQUIRING THE ATTENDANCE AND
27 TESTIMONY OF WITNESSES AND THE PRODUCTION OF BOOKS, PAPERS, RECORDS, AND
28 DOCUMENTS.

29 (2) THE COURT, IN CASE OF CONTUMACY OR REFUSAL TO OBEY ANY SUBPOENA ISSUED
30 UNDER THIS SECTION, AFTER NOTICE TO THE PERSON SUBPOENAED, AND UPON FINDING
31 THAT THE ATTENDANCE OR TESTIMONY OF THE WITNESSES OR THE PRODUCTION OF
32 THE BOOKS, PAPERS, RECORDS, AND DOCUMENTS, AS THE CASE MAY BE, IS RELEVANT
33 OR NECESSARY FOR A HEARING, INVESTIGATION, OR PROCEEDING OF THE COMMISSION,
34 MAY ISSUE AN ORDER REQUIRING THE ATTENDANCE AND TESTIMONY OF THE SOUGHT

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1 WITNESSES AND THE PRODUCTION OF THE SOUGHT BOOKS, PAPERS, RECORDS, AND
2 DOCUMENTS, OR ANY OF THEM.

3 (3) ANY FAILURE TO OBEY SUCH AN ORDER OF THE COURT MAY BE PUNISHED BY THE
4 COURT AS CONTEMPT.

5 (G) *DISMISSAL FOR LACK OF PROBABLE CAUSE.*

6 IF THE COMMISSION FINDS THAT THE COMPLAINT LACKS PROBABLE CAUSE, THEN IT MUST
7 DISMISS THE COMPLAINT AND MAIL COPIES OF ITS FINDING TO THE RESPONDENT AND
8 COMPLAINANT.

9 (H) *PROBABLE CAUSE CONFERENCE; SETTLEMENT AGREEMENT.*

10 (1) IF THE COMMISSION FINDS PROBABLE CAUSE FOR THE COMPLAINT, THE COMMISSION
11 MUST ATTEMPT, BY MEANS OF CONFERENCE, TO:

12 (I) PERSUADE THE RESPONDENT TO CEASE AND DESIST ITS ILLEGAL ACTION;

13 (II) REINSTATE ANY LAID-OFF EMPLOYEES TO THEIR FORMER POSITIONS AS
14 REQUIRED BY § 19A-3 {"RIGHT OF RECALL"} OF THIS SUBTITLE; AND

15 (III) ORDER PAYMENT TO LAID-OFF EMPLOYEES OF ALL WAGES AND OTHER
16 COMPENSATION OWED FOR THE PERIOD OF TIME THAT THE EMPLOYER WAS IN
17 VIOLATION OF THIS SUBTITLE, AS PROVIDED IN § 19A-8 {"PENALTIES AND
18 FINES"} OF THIS SUBTITLE.

19 (2) ANY AGREEMENT REACHED BETWEEN THE RESPONDENT AND THE COMMISSION MUST
20 BE REDUCED TO WRITING AND A COPY OF THE AGREEMENT MUST BE FURNISHED TO
21 THE COMPLAINANT AND THE RESPONDENT.

22 (I) *FINAL ORDER.*

23 (1) THE COMMISSION MAY ISSUE A FINAL ORDER ON ITS OWN MOTION IF:

24 (I) THE COMMISSION AND THE RESPONDENT FAIL TO REACH AN AGREEMENT
25 WITHIN 30 DAYS OF THE DATE SET FOR THE PROBABLE CAUSE CONFERENCE, OR

26 (II) THE RESPONDENT FAILS TO MEET ITS OBLIGATIONS UNDER AN AGREEMENT
27 WITH THE COMMISSION WITHIN THE TIME SPECIFIED IN THE AGREEMENT.

28 (2) A FINAL ORDER ISSUED UNDER THIS SUBSECTION MAY:

29 (I) REQUIRE THE REINSTATEMENT OF A LAID-OFF EMPLOYEE OR EMPLOYEES
30 WRONGFULLY TERMINATED IN VIOLATION OF § 19A-3 {"RIGHT OF RECALL"}
31 OF THIS SUBTITLE;

32 (II) REQUIRE THE RESPONDENT TO PAY EACH EMPLOYEE AGGRIEVED IN VIOLATION
33 OF § 19A-3 {"RIGHT OF RECALL"} OF THIS SUBTITLE HIS OR HER LOST WAGES

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1 AND OTHER COMPENSATION TO THE DATE OF THE VIOLATION, AS PROVIDED IN
2 § 19A-8 {"PENALTIES AND FINES"} OF THIS SUBTITLE; AND

3 (III) DIRECT THE CESSATION OF ALL PRACTICES BY THE RESPONDENT THAT ARE
4 CONTRARY TO THE PROVISIONS OF THIS SUBTITLE OR THE RULES AND
5 REGULATIONS OF THE COMMISSION.

6 (3) A COPY OF AN ORDER ISSUED UNDER THIS SUBTITLE MUST BE FURNISHED TO THE
7 RESPONDENT BY REGISTERED MAIL WITHIN 3 DAYS OF ITS ISSUANCE.

8 (J) *JUDICIAL AND APPELLATE REVIEW.*

9 (1) ANY PERSON AGGRIEVED BY AN ORDER OF THE COMMISSION MAY SEEK JUDICIAL
10 REVIEW OF THAT ORDER BY PETITION TO THE CIRCUIT COURT FOR BALTIMORE CITY IN
11 ACCORDANCE WITH THE MARYLAND RULES.

12 (2) A PARTY TO THE JUDICIAL REVIEW MAY APPEAL THE COURT'S FINAL JUDGMENT TO
13 THE COURT OF SPECIAL APPEALS IN ACCORDANCE WITH THE MARYLAND RULES.

14 (K) *REFERRAL TO SOLICITOR.*

15 IF, WITHIN 30 DAYS OF THE ISSUANCE OF A FINAL ORDER UNDER SUBSECTION (I) OF THIS
16 SECTION, THE RESPONDENT HAS FAILED TO COMPLY WITH THE ORDER, THE COMMISSION
17 MAY CERTIFY THE PROCEEDINGS TO THE CITY SOLICITOR AND REQUEST THAT THE
18 SOLICITOR PETITION THE CIRCUIT COURT OF BALTIMORE CITY TO ENFORCE THE ORDER.

19 **§ 19A-8. PENALTIES AND FINES.**

20 (A) *IN GENERAL.*

21 THE COMMISSION MAY ORDER ANY EMPLOYER WHO COMMITS A VIOLATION OF THIS
22 SUBTITLE TO:

23 (1) PAY TO ANY AGGRIEVED LAID-OFF EMPLOYEE OR EMPLOYEES THE WAGES AND
24 OTHER COMPENSATION LOST AS A RESULT OF THE EMPLOYER'S VIOLATION OF §
25 19A-3 {"RIGHT OF RECALL"}, WITH INTEREST COMPUTED AT 10% PER ANNUM ON
26 WAGES AND OTHER MONETARY COMPENSATION DUE; AND

27 (2) REINSTATE ANY LAID-OFF EMPLOYEE OR EMPLOYEES UNDER THE CONDITIONS
28 REQUIRED BY § 19A-3 {"RIGHT OF RECALL"} OF THIS SUBTITLE.

29 (B) *FINES.*

30 (1) ANY EMPLOYER THAT VIOLATES THIS SUBTITLE SHALL FORFEIT AND PAY TO THE CITY
31 OF BALTIMORE A CIVIL PENALTY AS FOLLOWS:

32 (I) FOR A 1ST OFFENSE, \$250 FOR EACH VIOLATION;

33 (II) FOR A 2ND OFFENSE, \$500 FOR EACH VIOLATION; AND

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(III) FOR EACH SUBSEQUENT OFFENSE, \$1,000 FOR EACH VIOLATION.

(2) EACH DAY THAT A VIOLATION CONTINUES CONSTITUTES A SEPARATE OFFENSE.

§ 19A-9. COLLECTIVE BARGAINING AGREEMENTS.

~~(A) IN GENERAL.~~

~~(1) NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO SUPERCEDE ANY COLLECTIVE BARGAINING AGREEMENT THAT:~~

~~(I) WAS EFFECTIVE ON _____, 2020 *{When codified, the Department of Legislative Reference shall insert the effective date of this Subtitle 19A};*~~
~~AND~~

~~(II) CONTAINED A RIGHT OF RECALL PROVISION.~~

~~(2) THIS SUBTITLE APPLIES IF A COLLECTIVE BARGAINING AGREEMENT EFFECTIVE ON _____, 2020 *{When codified, the Department of Legislative Reference shall insert the effective date of this Subtitle 19A}* DOES NOT HAVE A RIGHT OF RECALL PROVISION.~~

~~(B) FUTURE COLLECTIVE BARGAINING AGREEMENTS.~~

~~A RE-NEGOTIATED OR NEW COLLECTIVE BARGAINING AGREEMENT MAY ONLY WAIVE THE PROVISIONS OF THIS SUBTITLE IN CLEAR AND UNAMBIGUOUS TERMS.~~

ANY OR ALL OF THE PROVISIONS OF THIS SUBTITLE MAY BE WAIVED IN A BONA FIDE COLLECTIVE BARGAINING AGREEMENT, BUT ONLY IF THE WAIVER IS EXPRESSLY SET FORTH IN CLEAR AND UNMISTAKABLE TERMS.

§ 19A-10. WAIVER OF SUBTITLE PROHIBITED.

(A) *IN GENERAL.*

EXCEPT AS PROVIDED IN § 19A-9 {"COLLECTIVE BARGAINING AGREEMENTS"} OF THIS SUBTITLE, AN EMPLOYEE MAY NOT WAIVE ANY PROVISION OF THIS SUBTITLE.

(B) *VIOLATION OF THIS SUBTITLE.*

ANY REQUEST BY AN EMPLOYER TO AN EMPLOYEE TO WAIVE HIS OR HER RIGHTS UNDER THIS SUBTITLE IS A VIOLATION OF THIS SUBTITLE.

§ 19A-11. RULES AND REGULATIONS.

(A) *COMMISSION MAY ADOPT.*

THE COMMISSION MAY ADOPT RULES AND REGULATIONS TO IMPLEMENT THIS SUBTITLE.

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1 (B) *FILING WITH LEGISLATIVE REFERENCE.*

2 A COPY OF ALL RULES AND REGULATIONS ADOPTED UNDER THIS SUBTITLE MUST BE FILED
3 WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY BECOME EFFECTIVE.

4 **§ 19A-12. REPORT TO MAYOR AND CITY COUNCIL.**

5 ON OR BEFORE JUNE 30, 2022, THE WAGE COMMISSION SHALL REPORT TO THE MAYOR AND
6 CITY COUNCIL ON:

- 7 (1) THE EFFECTIVENESS OF THE PROVISIONS OF THIS SUBTITLE IN PROTECTING
8 EMPLOYEES' STABILITY OF EMPLOYMENT;
- 9 (2) RECOMMENDATIONS FOR ADDITIONAL PROTECTIONS THAT FURTHER THE INTENT OF
10 THIS SUBTITLE; AND
- 11 (3) WHETHER THE PROVISIONS OF THIS SUBTITLE ARE STILL NECESSARY BASED ON THE
12 CITY'S RECOVERY FROM THE IMPACTS OF THE COVID-19 PANDEMIC.

13 **§ 19A-13. SEVERABILITY.**

14 ALL PROVISIONS OF THIS SUBTITLE ARE SEVERABLE. IF A COURT DETERMINES THAT A WORD,
15 PHRASE, CLAUSE, SENTENCE, PARAGRAPH, SUBSECTION, SECTION, OR OTHER PROVISION IS
16 INVALID OR THAT THE APPLICATION OF ANY PART OF THE PROVISION TO ANY PERSON OR
17 CIRCUMSTANCES IS INVALID, THE REMAINING PROVISIONS AND THE APPLICATION OF THOSE
18 PROVISIONS TO OTHER PERSONS OR CIRCUMSTANCES ARE NOT AFFECTED BY THAT DECISION.

19 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
20 are not law and may not be considered to have been enacted as a part of this or any prior
21 Ordinance.

22 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date it is
23 enacted. It will remain effective through December 31, 2022; and, immediately after that date,
24 with no further action by the Mayor and City Council, this Ordinance will be abrogated and of no
25 further effect.

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Certified as duly passed this 5 day of October, 2020

Brandon M. Scott

President, Baltimore City Council

Certified as duly delivered to His Honor, the Mayor,

this 5 day of October, 2020

Natasha B. Austin

Chief Clerk

Approved this _____ day of _____, 20____

Pursuant to Article IV, section 5 of the Baltimore City Charter, Mayoral Veto Over-Ride, this bill became law on December 7, 2020.

Mayor, Baltimore City

The Law Department DOES NOT APPROVE
City Council Bill 20-0544 for form and legal sufficiency.
October 7, 2020.