

**CITY OF BALTIMORE  
COUNCIL BILL 20-0535  
(First Reader)**

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Introduced by: President Scott, Councilmembers Bullock, Burnett, Middleton, Sneed, Pinkett,  
Cohen, Reisinger, Dorsey, Stokes

Introduced and read first time: May 18, 2020

Assigned to: Labor Committee

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REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Labor Commissioner, Department of  
Finance

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A BILL ENTITLED

1 AN ORDINANCE concerning

2 **COVID-19 Relief – Premium Pay for Essential Workers**

3 FOR the purpose of requiring certain essential businesses to provide premium pay to their  
4 employees; prohibiting certain essential businesses from taking certain adverse actions  
5 against their employees; requiring certain essential businesses to keep certain records of their  
6 compliance with the premium pay requirements; requiring certain signs to be posted;  
7 including the premium pay provisions within the Baltimore City Wage Commission’s scope  
8 of enforcement; applying certain fines and penalties for violations of premium pay  
9 provisions; defining certain terms; providing for a special effective date; and establishing a  
10 termination date.

11 BY adding

12 Article 11 - Labor and Employment  
13 Section(s) 3A-1 to 3A-7, to be under the new subtitle,  
14 “Subtitle 3A. COVID-19 Premium Pay”  
15 Baltimore City Code  
16 (Edition 2000)

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

19 **Baltimore City Code**

20 **Article 11. Labor and Employment**

21 **SUBTITLE 3A. COVID-19 PREMIUM PAY**

22 **§ 3A-1. DEFINITIONS.**

23 (A) *IN GENERAL.*

24 IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

EXPLANATION: CAPITALS indicate matter added to existing law.  
[Brackets] indicate matter deleted from existing law.

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1 (B) *CHAIN BUSINESS.*

2 “CHAIN BUSINESS” MEANS ANY BUSINESS THAT IS PART OF A GROUP OF ESTABLISHMENTS  
3 THAT SHARE A COMMON OWNER OR PRINCIPAL WHO OWNS AT LEAST 30% OF EACH  
4 ESTABLISHMENT WHERE THE ESTABLISHMENTS:

5 (1) ENGAGE IN THE SAME BUSINESS; OR

6 (2) OPERATE PURSUANT TO FRANCHISE AGREEMENTS WITH THE SAME FRANCHISOR AS  
7 DEFINED IN TITLE 14, SUBTITLE 2 {“FRANCHISES”}, OF THE STATE BUSINESS  
8 REGULATION ARTICLE.

9 (C) *COVID-19 EMERGENCY.*

10 “COVID-19 EMERGENCY” MEANS THE CATASTROPHIC HEALTH EMERGENCY DECLARED BY THE  
11 GOVERNOR OF MARYLAND ON MARCH 5, 2020, AS AMENDED OR EXTENDED BY THE GOVERNOR,  
12 UNDER STATE PUBLIC SAFETY ARTICLE, § 14-3A-02.

13 (D) *ESSENTIAL BUSINESS.*

14 “ESSENTIAL BUSINESS” MEANS ANY PERSON THAT IS PERMITTED TO CONTINUE BUSINESS  
15 OPERATIONS UNDER:

16 (1) THE EXECUTIVE ORDER OF THE GOVERNOR OF MARYLAND, NUMBER 20-03-30-01,  
17 AND ANY AMENDMENTS ISSUED THEREAFTER; OR

18 (2) ANY OTHER ORDER OF THE GOVERNOR OF THE STATE OF MARYLAND ISSUED  
19 UNDER THE GOVERNOR’S COVID-19 EMERGENCY AUTHORITY.

20 (E) *ESSENTIAL EMPLOYEE.*

21 (1) *IN GENERAL.*

22 “ESSENTIAL EMPLOYEE” MEANS ANY INDIVIDUAL EMPLOYED OR PERMITTED TO WORK  
23 AT OR FOR AN ESSENTIAL BUSINESS, FOR AT LEAST 4 HOURS OR MORE DURING A PAY  
24 PERIOD WITHIN THE GEOGRAPHIC BOUNDARIES OF THE CITY OF BALTIMORE.

25 (2) *EXCLUSION.*

26 “ESSENTIAL EMPLOYEE” DOES NOT INCLUDE ANY EMPLOYEE WHO IS:

27 (I) SALARIED;

28 (II) COVERED BY A COLLECTIVE BARGAINING AGREEMENT IF THE AGREEMENT  
29 EXPRESSLY WAIVES THE PROVISIONS OF THIS LOCAL LAW AND PROVIDES  
30 COMPARABLE OR SUPERIOR BENEFITS FOR ESSENTIAL EMPLOYEES; OR

31 (III) COVERED BY A PROGRAM CREATED PURSUANT TO AN ORDER ISSUED BY THE  
32 GOVERNOR UNDER THE GOVERNOR’S COVID-19 EMERGENCY AUTHORITY  
33 THAT PROVIDES COMPARABLE OR SUPERIOR BENEFITS FOR ESSENTIAL  
34 EMPLOYEES.

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1 (F) *ESSENTIAL EMPLOYER.*

2 “ESSENTIAL EMPLOYER” MEANS ANY EMPLOYER THAT EMPLOYS AN INDIVIDUAL OR  
3 PERMITS AN INDIVIDUAL TO WORK AT OR FOR AN ESSENTIAL BUSINESS WITHIN THE CITY  
4 OF BALTIMORE.

5 (G) *ESSENTIAL WORKER PREMIUM.*

6 “ESSENTIAL WORKER PREMIUM” MEANS A WAGE AMOUNT SPECIFIED IN THIS SUBTITLE TO  
7 BE PAID TO AN ESSENTIAL WORKER THAT IS SEPARATE FROM AND ADDITION TO THE  
8 ESSENTIAL WORKER’S BASE WAGE PAY.

9 (H) *LARGE ESSENTIAL EMPLOYER.*

10 (1) *IN GENERAL.*

11 “LARGE ESSENTIAL EMPLOYER” MEANS AN ESSENTIAL EMPLOYER THAT EMPLOYS 100  
12 OR MORE INDIVIDUALS OR PERMITS 100 OR MORE INDIVIDUALS TO WORK AT OR FOR  
13 THE EMPLOYER’S ESSENTIAL BUSINESS.

14 (2) *CALCULATION OF EMPLOYEES.*

15 (i) *IN GENERAL.*

16 TO CALCULATE THE NUMBER OF INDIVIDUALS PERFORMING WORK FOR AN  
17 EMPLOYER FOR COMPENSATION DURING A PAY PERIOD, ALL INDIVIDUALS  
18 PERFORMING WORK FOR COMPENSATION ON A FULL-TIME, PART-TIME OR  
19 TEMPORARY BASIS SHALL BE COUNTED.

20 (ii) *FLUCTUATING EMPLOYEES.*

21 WHERE THE NUMBER OF INDIVIDUALS WHO WORK FOR AN EMPLOYER FOR  
22 COMPENSATION PER PAY PERIOD FLUCTUATES, BUSINESS SIZE MAY BE DETERMINED  
23 FOR THE CURRENT CALENDAR YEAR BASED ON THE AVERAGE NUMBER OF  
24 INDIVIDUALS WHO WORKED FOR COMPENSATION PER PAY PERIOD DURING THE  
25 PRECEDING CALENDAR YEAR.

26 (iii) *CHAIN BUSINESSES.*

27 TO CALCULATE THE NUMBER OF INDIVIDUALS PERFORMING WORK FOR AN  
28 EMPLOYER THAT IS A CHAIN BUSINESS, THE TOTAL NUMBER OF EMPLOYEES IN  
29 THAT GROUP OF ESTABLISHMENTS WITHIN BALTIMORE CITY SHALL BE COUNTED.

30 (3) *EXCLUSION.*

31 “LARGE ESSENTIAL EMPLOYER” DOES NOT INCLUDE A BUSINESS THAT IS ASSIGNED A  
32 2017 NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM CODE BEGINNING WITH  
33 531 {“REAL ESTATE”}.

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1 (i) *PERSON.*

2 (1) *IN GENERAL.*

3 “PERSON” MEANS:

4 (I) AN INDIVIDUAL;

5 (II) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY  
6 KIND; OR

7 (III) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY,  
8 OR REPRESENTATIVE OF ANY KIND.

9 (2) *EXCLUSION.*

10 “PERSON” DOES NOT INCLUDE ANY UNIT OF FEDERAL OR STATE GOVERNMENT OR THE  
11 GOVERNMENT OF ANY POLITICAL SUBDIVISION OF MARYLAND, EXCEPT FOR THE CITY  
12 OF BALTIMORE.

13 (3) *INCLUSION.*

14 “PERSON” INCLUDES THE CITY OF BALTIMORE.

15 **§ 3A-2. PREMIUM PAY.**

16 (A) *IN GENERAL.*

17 A LARGE ESSENTIAL EMPLOYER SHALL PROVIDE AN ESSENTIAL EMPLOYEE WITH THE  
18 ESSENTIAL WORKER PREMIUM AMOUNT AS SPECIFIED IN THIS SECTION FOR EACH SHIFT  
19 WORKED BY THE ESSENTIAL EMPLOYEE.

20 (B) *ESSENTIAL WORKER PREMIUM AMOUNTS.*

21 LARGE ESSENTIAL EMPLOYERS SHALL PAY AN ESSENTIAL EMPLOYEE AN ESSENTIAL  
22 WORKER PREMIUM OF:

23 (1) \$10 FOR ANY SHIFT OF LESS THAN 4 HOURS;

24 (2) \$20 FOR ANY SHIFT OF BETWEEN 4 AND 8 HOURS, INCLUSIVE; OR

25 (3) \$25 FOR ANY SHIFT OF GREATER THAN 8 HOURS.

26 (C) *METHOD OF PAYMENT.*

27 (1) *TIME.*

28 A LARGE ESSENTIAL EMPLOYER SHALL PAY THE ESSENTIAL WORKER PREMIUMS  
29 REQUIRED UNDER THIS SECTION AT THE SAME TIME AS THAT EMPLOYER PAYS THE

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1 ESSENTIAL EMPLOYEE WAGES OWED FOR WORK PERFORMED DURING THAT PAY  
2 PERIOD.

3 (2) *DOCUMENTATION.*

4 ESSENTIAL WORKER PREMIUM PAY SHALL BE SEPARATELY NOTED ON A WAGE STUB OR  
5 OTHER FORM OF WRITTEN DOCUMENTATION AND PROVIDED TO THE ESSENTIAL  
6 EMPLOYEE FOR THAT PAY PERIOD.

7 **§ 3A-3. RETALIATION PROHIBITED.**

8 (A) “ADVERSE ACTION” DEFINED

9 FOR THE PURPOSES OF THIS SECTION, “ADVERSE ACTION” INCLUDES THREATENING,  
10 INTIMIDATING, DISCIPLINING, DISCHARGING, DEMOTING, SUSPENDING, OR HARASSING AN  
11 ESSENTIAL EMPLOYEE, REDUCING THE HOURS OR PAY OF AN ESSENTIAL EMPLOYEE,  
12 INFORMING ANOTHER ESSENTIAL EMPLOYER, OR ANY OTHER PERSON OR ENTITY THAT  
13 EMPLOYS OR PERMITS INDIVIDUALS TO WORK AT OR FOR THAT PERSON OR ENTITY, THAT  
14 AN ESSENTIAL EMPLOYEE HAS ENGAGED IN ACTIVITIES PROTECTED BY THIS SUBTITLE, AND  
15 DISCRIMINATING AGAINST THE ESSENTIAL EMPLOYEE, INCLUDING ACTIONS RELATED TO  
16 PERCEIVED IMMIGRATION STATUS OR WORK AUTHORIZATION.

17 (B) *IN GENERAL.*

18 (1) A PERSON MAY NOT TAKE ANY ADVERSE ACTION AGAINST AN ESSENTIAL EMPLOYEE  
19 THAT PENALIZES THAT EMPLOYEE FOR, OR IS REASONABLY LIKELY TO DETER THAT  
20 EMPLOYEE FROM, EXERCISING OR ATTEMPTING TO EXERCISE ANY RIGHT PROTECTED  
21 UNDER THIS SUBTITLE.

22 (2) AN ESSENTIAL EMPLOYEE NEED NOT EXPLICITLY REFER TO THIS SUBTITLE OR THE  
23 RIGHTS ENUMERATED UNDER THIS SUBTITLE TO BE PROTECTED FROM RETALIATION.

24 **§ 3A-4. NOTICE AND POSTING.**

25 (A) *IN GENERAL.*

26 A LARGE ESSENTIAL EMPLOYER SHALL CONSPICUOUSLY POST, AT EVERY WORKPLACE OR  
27 JOB SITE WHERE ANY ESSENTIAL EMPLOYEE WORKS, NOTICES INFORMING EMPLOYEES OF  
28 THIS SUBTITLE WITHIN 5 CALENDAR DAYS OF ITS EFFECTIVE DATE.

29 (B) *LANGUAGES.*

30 THE NOTICE REQUIRED BY THIS SECTION SHALL BE IN ENGLISH AND IN ANY OTHER  
31 LANGUAGE SPOKEN AS A PRIMARY LANGUAGE BY AT LEAST 5% OF THE EMPLOYEES AT  
32 THAT WORKPLACE OR JOB SITE.

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1     **§ 3A-5. RECORDKEEPING.**

2           (A) *IN GENERAL.*

3           A LARGE ESSENTIAL EMPLOYER SHALL:

- 4                   (1) MAKE AND RETAIN, FOR AT LEAST 3 YEARS, RECORDS THAT DOCUMENT ITS  
5                            COMPLIANCE WITH THIS SUBTITLE; AND  
6                   (2) ALLOW THE COMMISSION TO ACCESS THE RECORDS AND OTHER INFORMATION, IN  
7                            ACCORDANCE WITH APPLICABLE LAW AND WITH APPROPRIATE NOTICE, IN  
8                            FURTHERANCE OF AN INVESTIGATION CONDUCTED UNDER THIS DIVISION I.

9           (B) *FAILURE TO MAINTAIN, RETAIN, OR PRODUCE.*

10           A LARGE ESSENTIAL EMPLOYER’S FAILURE TO MAKE, RETAIN, OR PRODUCE A RECORD OR  
11           OTHER INFORMATION REQUIRED TO BE MAINTAINED BY THIS SUBTITLE AND REQUESTED BY  
12           THE COMMISSION IN FURTHERANCE OF AN INVESTIGATION CONDUCTED PURSUANT TO THIS  
13           DIVISION I THAT IS RELEVANT TO A MATERIAL FACT ALLEGED BY THE COMMISSION IN A  
14           NOTICE OF VIOLATION ISSUED PURSUANT TO THIS DIVISION I CREATES A REBUTTABLE  
15           PRESUMPTION THAT THE ALLEGED FACT IS TRUE.

16     **§ 3A-6. ENFORCEMENT PROCEDURES.**

17           SUBTITLE 4 {“ENFORCEMENT PROCEDURES”} OF THIS DIVISION I SHALL GOVERN THE  
18           ADMINISTRATION OF COMPLAINTS, INVESTIGATIONS, AND ENFORCEMENT OF THIS SUBTITLE.

19     **§ 3A-7. PENALTIES AND FINES.**

20           ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS SUBJECT TO THE PENALTIES  
21           AND FINES SET FORTH IN SUBTITLE 6 {“PENALTIES AND FINES”} OF THIS DIVISION I.

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

25           **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date it is  
26           enacted. It will remain effective through the day following the expiration of the catastrophic  
27           health emergency declared by the Governor on March 5, 2020, as amended or extended by the  
28           Governor; and, immediately after that date, with no further action by the Mayor and City  
29           Council, this Ordinance will be abrogated and of no further effect.