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Chairman Phil Mendelson

[Version circulated at 3/13 midnight]

A BILL

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To provide, on an emergency basis, additional flexibility and authority to the Executive to address critical needs of District residents during a public health emergency including wage replacement, business relief, and additional authorities and exemptions regarding health, public safety, and consumer protection.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “COVID-19 Response Emergency Amendment Act of 2020”.

TITLE I. LABOR AND WORKFORCE PROTECTIONS

Sec. 101. Wage replacement.

(a) Notwithstanding any provision of the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 946; D.C. Official Code § 51-101 et seq.), or any other provision of District law, or Federal law or regulation to the contrary, during a period of time in which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), an affected employee shall be eligible for unemployment insurance during the period of such employment, in accordance with subsection (b) of this section.

(b)(1) Upon application, an affected employee shall receive unemployment insurance compensation (“UI”). For an affected employee, there shall be no waiting period prior to receipt of UI and no work-search requirement.

(2) An affected employee shall be eligible for UI regardless of whether the:

(A) Employer has provided a date certain for the employee’s return to work; or

(B) Employee has a reasonable expectation of continued employment with the current employer.

(c) Benefits paid pursuant to this section shall not be charged to the experience rating accounts of employers.

(d) For the purposes of this section, the term “affected employee” means a District resident who is determined by the Mayor to have become unemployed or partially unemployed as a result of the public health emergency. It includes an employee who quits his employ because of unsafe working conditions arising during the COVID-19 emergency, as determined by the Mayor, an employee who has been quarantined by the Department of Health, an employee who has self-quarantined at the recommendation of the Department of Health or a medical professional, or an employee of an employer that ceased or reduced operations due an order from the Department of health or a reduction in business revenue resulting from the COVID-19 emergency.

Sec. 102. Employment protections.

The D.C. Family and Medical Leave Act of 1990, effective October 3, 1990 (D.C. Law 8-181; D.C. Official Code § 32-501 *et seq*.), is amended as follows:

(a) Section 2(1) (D.C. Official Code § 32-501(1)) is amended by striking the phrase “medical leave” and inserting the phrase “medical leave; except, that during a public health emergency declared by the Mayor pursuant to section 5a of the District of Columbia Public Emergency Act of 1980 (D.C. Law 3-149; D.C. Official Code § 7-2304.01), the one-year employment requirement and 1,000-hour work requirement shall not apply to an employee who has been ordered or recommended to quarantine or self-quarantine by the Department of Health or a medical professional.

(b) Section 17 (D.C. Official Code § 32-516) is amended by adding a new paragraph (3) to read as follows:

“(3) With respect to section 6 of this act, to any employer in the case of an employee who has been ordered or recommended to quarantine or self-quarantine by the Department of Health or a medical professional, or has tested positive for the COVID-19 virus.

TITLE II. BUSINESS RELIEF.

Sec. 201. Delayed hotel property and general sales tax remittances.

Title 47 of the District of Columbia Code is amended as follows:

(a) Section 811 (D.C. Official Code § 47-811) is amended by striking the phrase “pay an installment” and inserting the phrase “pay an installment; provided further, that for a hotel the installment to be paid on March 31, 2020, the owner shall have until June 30, 2020 to pay the installment” in its place.

(b) Section 2015 (D.C. Official Code § 47-2015) is amended by adding a new subsection (a-2) to read as follows:

“(a-2) Notwithstanding any other provision of this title, a the Mayor or the Chief Financial Officer may allow a vendor, other than a hotel, required to file the February 2020 and March 2020 returns for sales taxes pursuant to subsection (a) to file the return pursuant to subsection (a) and to pay in full the gross sales receipt taxes due in full by September 20, 2020.”

Sec. 202. Public health emergency small business grant program.

The Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*), is amended as follows:

1. The table of contents is amended by adding a new section designation to read as follows:

“Sec. 2316. Public health emergency grant program.”.

(b) A new section 2316 is added to read as follows:

“Sec. 2316. Public health emergency grant program.

“(a)(1) Upon the Mayor’s declaration of a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), the Mayor may, notwithstanding the Grant Administration Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code § 1-328.11 *et seq.*), and in the Mayor’s sole discretion, disburse grants to an eligible small business; provided, that the eligible small business:

“(A) Submits a grant application in the form and with the information required by the Mayor; and

“(B) Can demonstrate, to the satisfaction of the Mayor, financial distress caused by a reduction of business as a result of the cause of the public health emergency.

“(2) A grant issued pursuant to this section may be expended for the following:

“(A) Employee wages and benefits. For the purposes of this subparagraph, “benefits” means fringe benefits associated with employment, including health insurance;

“(B) Operating costs of the business.

“(C) Repayment of loans obtained through the United States Small Business Administration.”.

“(c) For the purposes of this section, the term “small business” means a business enterprise eligible for certification under section 2332.

“(d) The Mayor, pursuant to section 105 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-505), may issue emergency rules to implement the provisions of this section.”

TITLE III. PUBLIC HEALTH, SAFETY, AND CONSUMER PROTECTION.

Sec. 301. The District of Columbia Public Emergency Act of 1980, effective March 5, 1981 (D.C. Law 3-149; D.C. Official Code § 7-2301 *et seq.*), is amended as follows:

(a) Section 5(b) (D.C. Official Code § 7-2304(b)) is amended as follows:

(1) Paragraph (13) is amended by striking the word “or” at the end.

(2) Paragraph (14) is amended by striking the period at the end and inserting the phrase “; or” in its place.

(3) A new paragraph (15) is added to read as follows:

“(15) Waive application of any insurance, securities or banking law in the District if doing so is reasonably calculated to protect the health, safety, and welfare of District residents.”.

(b) Section 5a(d) (D.C. Official Code § 7-2304.01(d)) is amended as follows:

(1) Paragraph (3) is amended by striking the phrase “solely for the duration of the public health emergency; and” and inserting the phrase “solely for actions taken during the public health emergency;” in its place.

(2) Paragraph (4) is amended by striking the period at the end and inserting the phrase “;” in its place.

(3) New paragraphs (5), (6), (7), and (8) are added to read as follows:

“(5) Waive application of any insurance, securities or banking law under the purview of the Commissioner in the District if doing so is reasonably calculated to protect the health, safety, and welfare of District residents;

“(6) Authorize the use of crisis standards of care or modified means of delivery of health care services in scarce resource situations;

“(7) Authorize the Department of Health to coordinate health care delivery for first aid within the limits of individual licensure in shelters or facilities as provided in plans and protocols published by the Department of Health; and

“(8) Undertake certain other actions not provided in current District law as required to contain or mitigate public health emergencies.”.”

(b) Section 7 (D.C. Official Code § 7-2306) is amended by adding a new subsection (c-1) to read as follows:

“(c-1) Notwithstanding subsections (a), (b), and (c) of this section, the Council authorizes the Mayor to extend the March 11, 2020 emergency executive order and public health emergency executive order (“emergency orders”) issued in response to the coronoavirus (COVID-19) for an additional 30-day period. After the additional 30-day extension authorized by this subsection, the Mayor may extend the emergency orders for additional 15-day periods pursuant to subsections (b) or (c) of this subsection.”.

Sec. 302. The Department of Insurance and Securities Regulation Establishment Act of 1996, effective May 21, 1997 (D.C. Law 11-268; D.C. Official Code § 31-101 et seq.), is amended by adding a new section 5a to read as follows:

“Sec. 5a. Emergency authority of the Commissioner.

“(a) The Commissioner may issue regulations or an order as appropriate and necessary when:

“(1) The Mayor has declared either a public emergency pursuant to section 5 of the District of Columbia Public Emergency Act of 1980 (D.C. Law 3-149; D.C. Official Code § 7-2304), or a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980 (D.C. Law 3-149; D.C. Official Code § 7-2304.01); or

“(2) The President of the United States has declared a national state of emergency or issued a major disaster or emergency declaration for the District.

“(b) Scope of Authority during a declared emergency.

To address a major disaster or emergency during a period of time triggered by the Mayor declaring a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), the Commissioner may issue regulations or an order that:

“(1) Apply to any person or entity regulated by the Commissioner; and

“(2) Address:

“(A) Submission of claims or proof of loss;

“(B) Grace periods for payment of premiums and performance of other duties by insureds;

“(C) Temporary postponement of:

“(i) Cancellations;

“(ii) Nonrenewals; or

“(iii) Premium increases;

“(D) Modifications to insurance policies with regard to providers and prescriptions;

“(E) Insurer operations;

“(F) Filing requirements;

“(G) Procedures for obtaining nonelective health care services;

“(H) Time restrictions for filling or refilling prescription drugs; and

“(I) Time frames applicable to an action by the Commissioner under this section;

“(J) Temporarily waiving application of laws, regulations, or requirements to ensure that depository services, non-depository services and securities transactions can continue to be provided, including:

“(i) Temporary closure of a location within the affected area; and

“(ii) Allowing for the opening of a temporary service location, which may be a mobile branch, temporary office space, or other facility; and

“(K) Any other activity related to insurance, securities, and banking under the purview of the Commissioner necessary to protect the residents of the District during a declared emergency.

“(c) The Commissioner may require licensees to answer questions related to and submit documentation of the licensee’s continuity of operations plan.

“(d) Emergency rulemaking and bulletin.

“(1)(A) To accomplish the purposes of this section, the Commissioner may issue an emergency rulemaking, order, or bulletin pursuant to this section specifying:

“(i) That the regulations, order, or bulletin are effective immediately;

“(ii) The line or lines of business, or the class or classes of licenses, to which the regulation, order or bulletin applies;

“(iii) The geographic areas to which the regulation, order or bulletin applies; and

“(iv) The period of time for which the regulation, order or bulletin applies.

“(B) A regulation promulgated under paragraph (1)(A) of this section may not apply beyond the duration or effects of, or the geographical area included within, the Mayor's or President's declaration of a state of emergency or disaster.”.

Sec. 303. Public benefits extension

Notwithstanding any other law, the Mayor may extend the expiration of any public benefit program, including the Alliance program, Temporary Assistance for Needy Families, or Supplemental Nutritional Assistance Program, until after a period of time during which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), as allowable under federal or District law. Sec. 304. Price gouging and stockpiling.

Title 28 of the District of Columbia Code is amended as follows:

(a) The table of contents is amended by adding a new section designation to read as follows:

“28-4102.01. Stockpiling.”.

(b) Section 28-4102(a)) is amended by striking the phrase “an emergency that resulted from a natural disaster,” and inserting the phrase “a public emergency declared in accordance with section 5 of the District of Columbia Public Emergency Act of 1980, effective March 5, 1981 (D.C. Law 3-149; D.C. Official Code § 7-2304), or an emergency that resulted from a natural disaster,” in its place.

(c) A new section 28-4102.01 is added to read as follows:

“Sec. 28-4102.01

“It shall be unlawful for any person to purchase goods in quantities greater than those specified by the Department of Health, the Homeland Security and Emergency Management Agency, or the Federal government, for which goods have been declared necessary for first responders or others following a natural disaster, public health emergency, or public emergency, or necessary to maintain supply chains of commerce during an emergency, and unnecessary to hoard by individual consumers.”.

Sec. 304. Disconnection of electric service.

The Retail Electric Competition and Consumer Protection Act of 1999, effective May 9, 2000 (D.C. Law 13-107; D.C. Official Code § 34-1501 *et seq*.), is amended by adding a new section 106b to read as follows:

“Sec. 106b. Disconnection of service during a public health emergency prohibited.

“(a) For the purposes of this section, the term “public health emergency” means a period of time during which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01).

“(b) An electric company shall not disconnect residential electric service for non-payment of the bill during a public health emergency.”.

Sec. 305. Disconnection of gas service.

The Retail Natural Gas Supplier Licensing and Consumer Protection Act of 2004, effective March 16, 2005 (D.C. Law 15-227; D.C. Official Code § 34-1671.01 *et seq*.), is amended by adding a new section 7b to read as follows:

“Sec. 7b. Disconnection of service during a public health emergency prohibited.

“(a) For the purposes of this section, the term “public health emergency” means a period of time during which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01).

“(b) A gas company shall not disconnect residential gas service for non-payment of the bill during a public health emergency.”.

Sec. 306. Disconnection of water service.

Section 103 of the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 102; D.C. Code § 34-2407.01-), is amended by adding a new paragraph (c) to read as follows:

“(c)(1) For the purposes of this subsection, the term “public health emergency” means a period of time during which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01).

“(2) During a public health emergency, notwithstanding any other provision of this act, the water supply to any property may not be shut off for non-payment of the bill during a public health emergency.”.

Sec. 307. Eviction Prohibition.

Section 501(k) of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.01(k)), is amended by adding a new subparagraph (3) to read as follows:

“(3) During a period of time in which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01).

Sec. 308. Prescription drugs.

Section 208 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.08), is amended by adding a new subsection (g-2) to read as follows:

“(g-2)(1) An individual licensed to practice pharmacy pursuant to this act may prescribe and dispense a refill of patient prescription medications prior to the expiration of the waiting period between refills, if certified to do so by the Board and pursuant to a written protocol established by the Board and the Board of Medicine under paragraph (2) of this subsection, to allow District residents to maintain an adequate supply of necessary medication during a public emergency, as defined by section 2(3) of the District of Columbia Public Emergency Act of 1980, effective March 5, 1981 (D.C. Law 3-149; D.C. Official Code § 7-2301(3)), provided that this subsection shall not apply to an opiate unless expressly recommended by the prescriber.

“(2) The Board and the Board of Medicine shall jointly develop and issue emergency regulations establishing protocols for the prescription and dispensation of one-time patient prescription refills during a public emergency.”.

Sec. 309. Extension of licenses and registrations.

Notwithstanding any provision of law, during a period time in which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), the Mayor may extend the validity of a license, registration, or permit that would otherwise require in person-renewal, including drivers licenses, vehicle registrations, and professional licenses.

TITLE IV. PUBLIC BODY MEETINGS

Sec. 401. Advisory Neighborhood Commission Meetings.

            Section 14(b) of the Advisory Neighborhood Commission Act of 1975, effective March 26, 1976 (D.C. Law 1-58; D.C. Official Code § 1-309.11), is amended as follows:

(1) Paragraph (1) is amended by striking the phrase “by the Commission.” and inserting the phrase “by the Commission; provided, that no meetings shall be required during a public health emergency declared by the Mayor pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), and the number of required meetings in a given year shall be reduced by one for every 30 days that a public health emergency is in effect during the year.”.

(2) A new paragraph (1B) is added to read as follows:

“(1B) Notwithstanding any other provision of law, except section 742 of the District of Columbia Home Rule Act (87 Stat. 831; D.C. Official Code § 1-207.42), during a public health emergency declared by the Mayor pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), Advisory Neighborhood Commissioners may remotely call a meeting, participate in a meeting, determine a quorum, and vote on matters before the Commission, without being physically present, through a teleconference or through digital means identified by the Commission for this purpose.”.

Sec. 402. Other boards and commissions.

Notwithstanding any provision of law, during a period time in which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), any requirement for a board, commission, or other public body to meet periodically is waived.

Sec. 403. Freedom of Information Act.

Section 202 of the Freedom of Information Act of 1976, effective March 29, 1977 (D.C. Law 1-96; D.C. Official Code § 2-532), is amended as follows:

(a) Subsection (c) is amended as follows:

(1) Paragraph (1) is amended by striking the phrase “Sundays, and” and inserting the phrase “Sundays, days of a COVID-19 closure, and” in its place

(2) Paragraph (2)(A) is amended by striking the phrase “Sundays, and” and inserting the phrase “Sundays, days of a COVID-19 closure, and” in its place

(b) Subsection (d)(1) is amended by striking the phrase “Sundays, and” both times it appears and inserting the phrase “Sundays, days of a COVID-19 closure, and” in its place.

(c) Subsection (f) is amended as follows:

(1) Paragraphs (1) and (1A) are redesignated as paragraphs (1A) and (1B) respectively.

(2) A new paragraph (1) is added to read as follows:

“(1) “COVID-19 closure” means:

“(A) A period of time during which the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01;

or “(B) A public body is closed due to the COVID-19 coronavirus disease, as determined by the personnel authority of the public body.”.

Sec. 404. Section 405(a) of the Open Meetings Act, effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code § 2-575(a)), is amended as follows:

(a) Paragraph (2) is amended by striking the phrase “; or” and inserting a semicolon in its place.

(b) Paragraph (3) is amended by striking the period and inserting the phrase “; or” in its place.

(c) A new paragraph (4) is added to read as follows:

“(4) In the event that the Mayor has declared a public health emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), the public body takes steps reasonably calculated to allow the public to view or hear the meeting, either while the meeting is taking place or as soon as reasonably practicable thereafter.”.

TITLE V. COUNCIL AUTHORITY

Sec. 501. Budget Submission Requirements

The Fiscal Year 2021 Budget Submission Requirements Resolution of 2019, effective November 22, 2019 (Res. 23-268; 66 DCR 15372), is amended as follows:

(a) Section 2 is amended by striking the phrase “not later than March 19, 2020” and inserting the phrase “not later than May 6, 2020” in its place.

(b) Section 3(2)(A) is amended by striking the phase “the proposed Fiscal Year 2021 Local Budget Act of 2020,” and inserting the phrase “the proposed Fiscal Year 2021 Local Budget Act of 2020, the proposed Fiscal Year 2021 Local Budget Emergency Act of 2020, the proposed Fiscal Year 2021 Local Budget Temporary Act of 2020,” in its place.

Section 502. Virtual meetings.

Section 367 of the Rules of Organization and Procedure for the Council of the District of Columbia, Council Period 23, effective January 2, 2019 (Res. 23-1; 66 DCR 272), is amended by striking the phrase “remote voting.”

TITLE VI. APPLICABILITY; FISCAL IMPACT STATEMENT; EFFECTIVE DATE

Sec. 601. Applicability.

This act shall apply as of March 17, 2020.

Sec. 602. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 603. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).