Legislation Details (With Text)

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Title:	An Ordinance providing for special conditions for the operation and use of Paid Sick Leave under the Paid Sick Days Act during and due to the crisis presented by COVID-19 through inclusion in the Pittsburgh Code of Ordinances of Chapter 626B: Temporary COVID-19 Paid Sick Leave.		
Sponsors:	Bobby Wilson		
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Date	Ver.	Action By	Action	Result
7/29/2021	3	Mayor	Signed by the Mayor	
7/27/2021	3	City Council	AMENDED	Pass
7/27/2021	3	City Council	Passed Finally	Pass
7/21/2021	2	Standing Committees	AMENDED	Pass
7/21/2021	2	Standing Committees	Affirmatively Recommended as Amended	Pass
7/20/2021	1	City Council	Read and referred	
7/20/2021	1	City Council	Waived under Rule 8	Pass

An Ordinance providing for special conditions for the operation and use of Paid Sick Leave under the Paid Sick Days Act during and due to the crisis presented by COVID-19 through inclusion in the Pittsburgh Code of Ordinances of Chapter 626B: Temporary COVID-19 Paid Sick Leave.

WHEREAS, the Mayor of the City of Pittsburgh issued a Declaration of Emergency ("Declaration") in response to the existing public health emergency associated with the spread of COVID-19 on March 13th, 2020; and

WHEREAS, City Council by passage of Ordinance 27 of 2015 provided for the "Paid Sick Days Act" in the City Code of Ordinances which, among other requirements, mandated a grant of sick time for certain employees working within the City of Pittsburgh; and

WHEREAS, the Paid Sick Days Act permitted employers to provide the required time off on an accrual basis; and

WHEREAS, employers within the City of Pittsburgh have an interest in maintaining operations; and

~~**[WHEREAS,** one out of every three residents in Allegheny County has yet to be vaccinated against COVID-~~

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~~19; and]~~

WHEREAS, per the United States Centers for Disease Control and Prevention, the Delta Variant ("Variant") is the most contagious version of COVID-19 worldwide, spreads about 225% faster than the original version of the virus, and is currently dominating the outbreak of this virus in the United States of America, accounting for nearly all of the new infections across the country; and

WHEREAS, Delta Variant cases have increased in Allegheny County, leading County Health Department Director Dr. Debra Bogen to emphasize the importance of getting vaccinated to avoid a large, Variant-spurred surge in COVID-19 cases; and

WHEREAS, one out of every three residents in Allegheny County has yet to be vaccinated against COVID-19; and

WHEREAS, children under the age of 12 are not yet eligible for COVID-19 vaccinations in the Commonwealth of Pennsylvania; and

WHEREAS, Pittsburgh Public Schools intends to resume the 2021-2022 school year with mandatory student attendance in-person five days a week, in accordance with all applicable guidelines issued by federal, state, and local health agencies and departments; and

WHEREAS, since children shall be physically returning to school Monday through Friday this fall, grave uncertainty persists about the possibility of a COVID-19 and/or Variant-spurred outbreak among this population; and

WHEREAS, as part of its 2021-2022 Health & Safety Plan, Pittsburgh Public Schools has implemented a "COVID-19 Decision Tree for People in Schools, Youth, and Child Care Programs" <https://www.pghschools.org/Page/5573> that clearly specifies the criteria by which school leadership should decide whether to send a student, teacher, or staffer home to socially distance and/or quarantine in the event of being exposed to and/or testing positive for COVID-19; and

WHEREAS, vulnerable groups, including the elderly and the terminally ill who have already received COVID -19 vaccinations, remain at risk of contracting the Delta Variant or other future strains of SARS-CoV-2; and

WHEREAS, working persons should not have to choose between taking unpaid time off from work to recover from COVID-19, including any of its variants, and going into work during this ongoing pandemic; and

WHEREAS, federal, state, and local health agencies and departments require sufficient time to assess the threat posed to public health by COVID-19, including its variants, and monitor the efficacy of vaccinations and other mitigation measures in preventing the spread of COVID-19, including its variants; and

WHEREAS, working persons should not have to choose between taking unpaid time off from work to take care of their loved ones who contracted COVID-19, especially those who belong to vulnerable groups, and going into work during this ongoing pandemic; and

WHEREAS, given the significant uncertainty of how unvaccinated children will fare when physically returning to school full-time this fall, working parents should not have to choose between taking unpaid time off from work to take care of their children who have contracted COVID-19 and going into work during this ongoing pandemic; and

WHEREAS, extending COVID-19 paid sick leave is critical to the prevention of disease in the City of Pittsburgh because such leave will provide residents of the City of Pittsburgh essential time to recover from COVID-19 and/or take care of their children and loved ones if they contract this virus.

THEREFORE, BE IT RESOLVED BY THE CITY OF PITTSBURGH AS FOLLOWS:

Section 1: The City of Pittsburgh Code of Ordinances shall be amended by inclusion of the following new Section 626B (the "Chapter"):

CHAPTER 626B: - TEMPORARY COVID-19 PAID SICK LEAVE

A. Unless otherwise provided hereunder, all capitalized terms contained herein shall be defined according to Section 626.02 of the City Code. Further, any Sick Time provided pursuant to this Chapter 626B shall conform in all respects to the requirements, procedures, and regulations of Chapter 626, except as specifically stated herein. For the purposes of this Chapter, "COVID-19 Sick Time" shall mean Paid Sick Time that is made available for one or more of the purposes set forth in Section H of this Chapter. This Chapter shall cover Employers of 50 or more Employees and shall apply to Employees who are (a) working for that Employer within Pittsburgh after the effective date of this Ordinance, (b) normally work for that Employer within the City of Pittsburgh but are currently teleworking from any other location as a result of COVID-19, or (c) work for that Employer from multiple locations or from mobile locations, provided that 51% or more of such employee's time is spent within the City of Pittsburgh.

B. The option of Employers to withhold Sick Time on an accrual basis is hereby temporarily revoked if an Employee's otherwise permissible Sick Time use request arises directly from COVID-19, including any of its variants. Such Employers shall make available the maximum amount of Sick Time required under Chapter 626, to Employees immediately upon hiring if their otherwise permissible requested use arises directly from COVID-19, including any of its variants. Employers may continue to require receipt of Sick Time on an accrual basis for all other permissible requests for use of Sick Time under Chapter 626.

C. Employers with 50 or more Employees shall provide COVID-19 Sick Time to Employees in the following amount:
    a. For Employees who work 40 hours or more per week, COVID-19 Sick Time shall be provided in the amount of 80 hours, unless the employer designates a higher limit;
    b. For Employees who work fewer than 40 hours in a week, COVID-19 Sick Time shall be provided in an amount equal to the amount of time the Employee is otherwise scheduled to work or works on average in a 14-day period, whichever is greater and unless the employer designates a higher limit. In the case of an Employee whose schedule varies from week to week, the Employer shall use the following in place of such number to determine the amount of time worked on average in a 14-day period: (i) Subject to a number equal to the average number of hours that the Employee was scheduled over the past 90 (ninety) days of work, including hours for which the Employee took leave of any type.

D. COVID-19 Sick Time shall be provided to Employees immediately without any waiting period or accrual requirements, once they have been employed by the Employer for the previous ninety (90) days.

E. COVID-19 Sick Time shall be in addition to any paid leave or sick time provided by the Employer or pursuant to Chapter 626, and an Employee may choose to use COVID-19 Sick Time before any sick time under Chapter 626.

F. With respect to an Employer that provides paid leave on the day before the effective date of this Act, COVID-19 Sick Time in addition to such paid leave; and the Employer may not change such paid leave on or after such effective date to avoid being subject to this section. An Employer may not require an

Employee to use other paid leave provided by the Employer to the Employee before the Employee uses COVID-19 Sick Time, unless state or federal law requires otherwise.

G. Employees who are exempt from overtime requirements under 29 U.S.C. § 213(a)(1) of the Federal Fair Labor Standards Act will be assumed to work 40 hours in each work week for purposes of COVID-19 Sick Time under this Act unless their normal work week is less than 40 hours, in which case COVID-19 Sick Time under this Act is based upon that normal work week.

H. COVID-19 Sick Time shall be provided to Employees for the following absences, if they are unable to work in person or telework, related to COVID-19 or any of its variants:

   a. Determination by a public official or public health authority having jurisdiction, a health care provider, or an Employee's Employer that the Employee's presence on the job or in the community would jeopardize the health of others because of the Employee's exposure to COVID-19 or because the individual is exhibiting symptoms that might jeopardize the health of others, regardless of whether the individual has been diagnosed with COVID-19 or any of its variants;
   b. Care of a family member of the Employee due to a determination by a public official or health authority having jurisdiction, a health care provider, or the family member's Employer that the presence of the family member on the job or in the community would jeopardize the health of others because of the family member's exposure to COVID-19 or a determination by the Employer that the Employee is a danger to the health of others because they are exhibiting symptoms that might jeopardize the health of others, regardless of whether the family member has been diagnosed with COVID-19 or any of its variants;
   c. An Employee's need to: ([~~a~~]i) self-isolate and care for oneself because the Employee is diagnosed with COVID-19 or any of its variants; ([~~b~~]ii) self-isolate and care for oneself under the guidelines promulgated by the Allegheny County Health Department because the employee is experiencing symptoms of COVID-19 or any of its variants; ([~~c~~]iii) seek or obtain medical diagnosis, care, or treatment if experiencing symptoms of an illness related to COVID-19 or any of its variants; or
   d. Care of a family member who: ([~~a~~]i) is self-isolating due to being diagnosed with COVID-19 or any of its variants; ([~~b~~]ii) is self-isolating under the guidelines promulgated by the Allegheny County Health Department due to experiencing symptoms of COVID-19 or any of its variants; ([~~c~~]iii) needs medical diagnosis, care, or treatment if experiencing symptoms of an illness related to COVID-19 or any of its variants.
   e. An Employee's need to obtain a vaccine or vaccine booster for themselves or a family member.

I. An Employer is not obligated to provide financial or other reimbursement to an Employee upon the Employee's termination, resignation, retirement, or other separation from employment for unused COVID-19 Sick Time.

J. Employees shall provide notice to the Employer of the need for COVID-19 Sick Time as soon as practicable.

K. An Employer may not require that an Employee making use of COVID-19 Sick Time search for or find a replacement worker to cover the hours during which the Employee is using COVID-19 Sick Time as a condition for providing COVID-19 Sick Time.

L. An Employee may use their COVID-19 Sick Time in the smallest increment that the Employer's payroll system uses to account for absences or use of other time.

M. To the extent that federal or state laws require employers to provide paid leave or paid sick time related to COVID-19 or any of its variants, Employers may substitute leave under the federal or state law for its obligations under this ordinance to the extent they coincide and the relevant federal or state law permits such concurrent use of paid leave. Employers shall be required to provide additional COVID-19 Sick Time under this Chapter to the extent that the requirements of this Chapter exceed the requirements of those laws and to the extent permitted under the federal or state law.

N. To the extent that an Employer has adopted a policy which provides its Employees with additional Paid Sick Leave Time specifically for use during the COVID-19 pandemic, Employers may substitute leave under such Employer policy for the leave required under this ordinance to the extent they coincide. Employers shall be required to provide additional COVID-19 Sick Time under this Chapter to the extent that the requirements of this Chapter exceed the requirements [~~its~~]of their own COVID-19-specific Paid Sick Leave policy.
O. Notwithstanding any provision to the contrary in Chapter 626 including specifically Section 626.09(e)(1)(a), the provisions of this Chapter 626B shall be effective immediately and may be fully enforced, without delay or grace period, by the entirety of Section 626.09.
P. The Mayor's Office of Equity shall be [~~empowered~~] authorized to promulgate guidelines and advisory documents concerning this Chapter[~~. It shall also be empowered~~] and to work with the Allegheny County Health Department for the promulgation of any regulations required per applicable law.

Section 2. The provisions of this Chapter shall be construed as temporary and will expire (365) three hundred and sixty-five days from the effective date of this Ordinance. [~~, which will permit federal, state, and local health agencies and departments sufficient time to assess the threat posed to public health by COVID-19 or any of its variants and monitor the efficacy of vaccinations in preventing the spread of COVID-19 or any of its variants.~~]The Council of the City of Pittsburgh reserves the right to extend the provisions of this Chapter beyond three hundred and sixty-five days from the effective date of this Ordinance.

Section 3: If any provision of this Chapter or application thereof to any person or circumstances is judged invalid, the invalidity shall not affect other provisions or applications of the Chapter, which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared severable. In no event shall this Chapter be construed as part or portion of Chapter 626 of the City of Pittsburgh Code of Ordinance.

Section 4: Effective date. This ordinance shall take effect immediately after approval.