

Legal Update Article

Philadelphia Enacts COVID-19 Whistleblower Legislation

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Meet the Authors



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Philadelphia Mayor Jim Kenney has signed a COVID-19 whistleblower bill, effectively making Philadelphia the first U.S. city to enact such legislation.

The Essential Workers Protection Act, also known as the “[Employee Protections in Connection with COVID-19 Emergency Health Order](#),” makes it unlawful for employers to fire or otherwise retaliate against employees who speak out against unsafe health conditions amid the COVID-19 pandemic. *See* Phila. Code §9-5000 *et seq.*

Anti-Retaliation Provisions

Protected Disclosures

The Act prohibits employers from taking any adverse action against an employee who, in good faith, discloses or demonstrates an intention to disclose the employer’s perceived violation of a local or state COVID-19 public health order that may significantly threaten the health or safety of employees or the public.

A rebuttable presumption of retaliation is imposed when an employer commits an adverse employment action within 90 days of the protected disclosure.

Refusal to Work Under Unsafe Conditions

The Act also prohibits an adverse employment action (such as termination, refusal to employ, reduced pay, or adverse change in working hours) against an employee who:

- Refuses to work in unsafe conditions if the employee reasonably believes that the employer is violating a local or state COVID-19 public health order; and
- Communicates to the employer that it is operating unsafely.

An employee may not refuse to work, however, if:

- The employer can provide the employee with a reasonable alternative work assignment that does not expose the employee to an unsafe condition; or
- Upon inspection by the Philadelphia or Pennsylvania Department of Health, the business proves it has complied with all public health orders addressing safe workplace practices.

Enforcement and Remedies

Employees may bring an action in a court of competent jurisdiction only after they file a complaint with the City’s Department of Labor and obtain a “determination of reasonable cause to go forward.”

Prevailing employees may recover civil penalties on behalf of the City for each violation, as well as back pay, reinstatement, other compensatory damages, and attorney’s fees.

Jackson Lewis attorneys are closely monitoring updates and changes to legal requirements and guidance and are available to help employers weed through the complexities involved with [state-specific or multistate-compliant plans](#).

If you have questions or need assistance, please reach out to the Jackson Lewis attorney with whom you regularly work, or any member of our [COVID-19 team](#).

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