Legislation Details (With Text)

File #:	Int 2448-2021	**Version:** A	**Name:**	Providing paid time to employees who accompany a child to receive a COVID-19 vaccination injection or care for a child with COVID-19 vaccine side effects.
Type:	Introduction		**Status:**	Enacted
			In control:	Committee on Consumer Affairs and Business Licensing
On agenda:	11/10/2021			
Enactment date:	12/24/2021		**Enactment #:**	2021/172

Title: A Local Law to amend the administrative code of the city of New York, in relation to providing paid time to employees who accompany a child to receive a COVID-19 vaccination injection or care for a child with COVID-19 vaccine side effects

Sponsors: Vanessa L. Gibson, Farah N. Louis, Diana I. Ayala, Eric Dinowitz, Deborah L. Rose, (by request of the Mayor)

Indexes: Sunset Date Applies

Attachments: 1. Summary of Int. No. 2448-A, 2. Summary of Int. No. 2448, 3. Int. No. 2448, 4. November 10, 2021 - Stated Meeting Agenda with Links to Files, 5. Hearing Transcript - Stated Meeting 11-10-21, 6. Committee Report 11/16/21, 7. Hearing Transcript 11/16/21, 8. Proposed Int. No. 2448-A - 11/21/21, 9. Committee Report 11/22/21, 10. Hearing Transcript 11/22/21, 11. Committee Report - Stated Meeting, 12. November 23, 2021 - Stated Meeting Agenda with Links to Files, 13. Hearing Transcript - Stated Meeting 11-23-21, 14. Message of Necessity, 15. Int. No. 2448-A (FINAL), 16. Fiscal Impact Statement, 17. Legislative Documents - Letter to the Mayor, 18. Local Law 172, 19. Minutes of the Stated Meeting - November 10, 2021, 20. Minutes of the Stated Meeting - November 23, 2021

Date	Ver.	Action By	Action	Result
11/10/2021	*	City Council	Introduced by Council	
11/10/2021	*	City Council	Referred to Comm by Council	
11/16/2021	*	Committee on Consumer Affairs and Business Licensing	Laid Over by Committee	
11/16/2021	*	Committee on Consumer Affairs and Business Licensing	Hearing Held by Committee	
11/22/2021	*	Committee on Consumer Affairs and Business Licensing	Hearing Held by Committee	
11/22/2021	*	Committee on Consumer Affairs and Business Licensing	Amendment Proposed by Comm	
11/22/2021	*	Committee on Consumer Affairs and Business Licensing	Amended by Committee	
11/22/2021	A	Committee on Consumer Affairs and Business Licensing	Approved by Committee	Pass
11/23/2021	A	City Council	Approved by Council	Pass
11/23/2021	A	City Council	Sent to Mayor by Council	
12/23/2021	A	City Council	Returned Unsigned by Mayor	
12/24/2021	A	Administration	City Charter Rule Adopted	

Int. No. 2448-A

By Council Members Gibson, Louis, Ayala, Dinowitz and Rose (by request of the Mayor)

A Local Law to amend the administrative code of the city of New York, in relation to providing paid time to employees who accompany a child to receive a COVID-19 vaccination injection or care for a child with COVID-19 vaccine side effects

Be it enacted by the Council as follows:

Section 1. Section 20-912 of the administrative code of the city of New York, as amended by local law number 97 for the year 2020, is amended by adding a new definition of "COVID-19 vaccination time" in alphabetical order, and the definition of "parent" is amended to read as follows:

"COVID-19 child vaccination time" shall mean paid time that an employer provides to an employee that can be used as set forth in section 20-914.1 of this chapter.

"Parent" shall mean a biological, foster, step- or adoptive parent, or a legal guardian of [an employee] a person, or a person who currently stands in loco parentis to another person or a person who stood in loco parentis when [the] an employee was a minor child.

§ 2. The heading of section 20-914 of the administrative code of the city of New York, as amended by local law number 97 for the year 2020, is amended to read as follows:

Use of safe/sick time and COVID-19 child vaccination time.

§ 3. Subdivisions c, e and f of section 20-914 of the administrative code of the city of New York, as amended by local law number 97 for the year 2020, are amended to read as follows:

c. An employer may require reasonable notice of the need to use safe/sick time or COVID-19 child vaccination time. Where such need is foreseeable, an employer may require reasonable advance notice of the intention to use such [safe/sick] time, not to exceed seven days prior to the date such [safe/sick] usage of time is to begin. Where such need is not foreseeable, an employer may require an employee to provide notice of the need for the use of [safe/sick] such time as soon as practicable.

e. An employer shall not require an employee, as a condition of taking safe/sick time or COVID-19 child vaccination time, to search for or find a replacement worker to cover the hours during which such employee is utilizing time.

f. Nothing in this chapter shall be construed to prohibit an employer from taking disciplinary action, up to and including termination, against a worker who uses safe/sick time provided pursuant to this chapter for purposes other than those described in this section or uses COVID-19 child vaccination time provided pursuant to this chapter for purposes other than those described in section 20-914.1.

§ 4. Chapter 8 of title 20 of the administrative code of the city of New York is amended by adding a new section 20-914.1 to read as follows:

§ 20-914.1 COVID-19 child vaccination time. a. An employee who is a parent of a child under the age of 18, or the parent of an older child who is incapable of self-care because of a mental or physical disability, shall be entitled to four hours of COVID-19 child vaccination time per vaccine injection, for each such child, for an absence from work due to any of the following reasons associated with such child's COVID-19 vaccination:

1. Accompanying such child to receive a COVID-19 vaccine injection; or

2. Caring for such child who is experiencing temporary side effects from a COVID-19 vaccine injection.

b. COVID-19 child vaccination time shall be paid at an employee's regular rate of pay at the time the time is taken, provided that the rate of pay shall not be less than the highest applicable rate of pay to which the employee would be entitled pursuant to subdivision 1 of section 652 of the labor law, or any other applicable federal, state, or local law, rule, contract, or agreement. Such rate of pay shall be calculated without allowing for any tip credit or tip allowance set forth in any federal, state, or local law, rule, contract, or agreement and shall not be charged against an employee's accrual or use of safe/sick time under this chapter. COVID-19 child vaccination time must be paid no later than the payday for the next regular payroll period beginning after the COVID-19 child vaccination time was used by the employee.

c. An employer may require that within seven days of an employee's use of COVID-19 child vaccination time, the employee provide reasonable documentation that the child for whose care the COVID-19

vaccine time is claimed has received a COVID-19 vaccine injection.

d. An employer shall not require an employee to work additional hours to make up for the original hours for which such employee was absent or to search for or find a replacement employee to cover the hours during which the employee is absent pursuant to this section.

§ 5. Section 20-916 of the administrative code of the city of New York is amended by adding a new subdivision c to read as follows:

c. Notwithstanding subdivisions a and b of this section, the requirement to provide COVID-19 child vaccination time as set forth in section 20-914.1 cannot be waived.

§ 6. Subdivision c of section 20-918 of the administrative code of the city of New York, as amended by local law number 97 for the year 2020, is amended to read as follows:

c. Adverse actions include, but are not limited to, threats, intimidation, discipline, discharge, demotion, suspension, harassment, discrimination, reduction in hours or pay, informing another employer of an employee's exercise of rights under this chapter, blacklisting, and maintenance or application of an absence control policy that counts protected leave for safe/sick time or COVID-19 child vaccination time as an absence that may lead to or result in an adverse action. Adverse actions include actions related to perceived immigration status or work authorization.

§ 7. Section 20-922 of the administrative code of the city of New York, as amended by local law number 97 for the year 2020, is amended to read as follows:

§ 20-922 Encouragement of more generous policies; no effect on more generous policies.

a. Nothing in this chapter shall be construed to discourage or prohibit the adoption or retention of a [safe time or sick time] safe/sick time or COVID-19 child vaccination time policy more generous than that which is required herein.

b. Nothing in this chapter shall be construed as diminishing the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan or other agreement

powered by Legistar™

providing more generous [safe time or sick time] safe/sick time or COVID-19 child vaccination time to an employee than required herein.

c. Nothing in this chapter shall be construed as diminishing the rights of public employees regarding [safe time or sick time] safe/sick time or COVID-19 child vaccination time as provided pursuant to federal, state or city law.

§ 8. Subdivision a of section 20-923 of the administrative code of the city of New York, as amended by local law number 97 for the year 2020, is amended to read as follows:

a. This chapter provides minimum requirements pertaining to [safe time and sick time] safe/sick time and COVID-19 child vaccination time and shall not be construed to preempt, limit or otherwise affect the applicability of any other law, regulation, rule, requirement, policy or standard that provides for greater accrual or use by employees of [safe time or sick time] safe/sick time or COVID-19 child vaccination time, whether paid or unpaid, or that extends other protections to employees.

§ 9. Subdivisions d and e of section 20-924 of the administrative code of the city of New York, as amended by local law number 97 for the year 2020, are amended to read as follows:

d. The department shall have the power to impose penalties provided for in this chapter and to grant each and every employee or former employee all appropriate relief. Such relief shall include: (i) for each instance of safe/sick time taken by an employee but unlawfully not compensated by the employer: three times the wages that should have been paid under this chapter or two hundred fifty dollars, whichever is greater; (ii) for each instance of safe/sick time requested by an employee but unlawfully denied by the employer and not taken by the employee or unlawfully conditioned upon searching for or finding a replacement worker, or for each instance an employer requires an employee to work additional hours without the mutual consent of such employer and employee in violation of section 20-915 of this chapter to make up for the original hours during which such employee is absent pursuant to this chapter: five hundred dollars; (iii) for each violation of section 20-918 not including discharge from employment: full compensation including wages and benefits lost, five

hundred dollars and equitable relief as appropriate; (iv) for each instance of unlawful discharge from employment: full compensation including wages and benefits lost, two thousand five hundred dollars and equitable relief, including reinstatement, as appropriate; [and] (v) for each employee covered by an employer's official or unofficial policy or practice of not providing or refusing to allow the use of accrued safe/sick time in violation of section 20-913, five hundred dollars; (vi) for each instance of COVID-19 child vaccination time taken by an employee but unlawfully not compensated by the employer, three times the wages that should have been paid under this chapter or two hundred fifty dollars, whichever is greater; and (vii) for each instance of COVID-19 child vaccination time unlawfully denied or charged against an employee's paid safe/sick time accruals, five hundred dollars.

e. Any entity or person found to be in violation of the provisions of sections 20-913, 20-914, 20-914.1, 20-915 or 20-918 of this chapter shall be liable for a civil penalty payable to the city not to exceed five hundred dollars for the first violation and, for subsequent violations that occur within two years of any previous violation, not to exceed seven hundred fifty dollars for the second violation and not to exceed one thousand dollars for each succeeding violation. Penalties shall be imposed on a per employee basis.

§ 10. a. This local law takes effect immediately and is retroactive to and deemed to have been in effect as of November 2, 2021, except that the department shall not enforce paragraph (vi) or (vii) of subdivision d of section 20-924 of the administrative code of the city of New York, as added by section nine of this local law, or subdivision e of such section 20-924, as amended by section nine of this local law, during the 60 days after it becomes law without first providing an employer with written notice of an alleged violation and 15 days to cure such alleged violation.

b. An employer may satisfy its obligation to provide COVID-19 child vaccination time to an employee who used leave time or unpaid time for purposes provided under section 20-914.1 of the administrative code between the retroactive effective date and the date of enactment of this local law by paying the employee for the COVID-19 child vaccination time used by the employee no later than the payday for the

next regular payroll period beginning after this local law takes effect.

c. This local law expires and is deemed repealed on December 31, 2022, provided that such expiration and repeal do not excuse an employer from paying each employee for COVID-19 child vaccination time accrued on or before such date, or affect the ability of the department of consumer and worker protection to pursue penalties and relief provided pursuant to subdivisions d and e of section 20-924 of the administrative code of the city of New York with respect to any obligation incurred on or before such date.

powered by Legistar™