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Title:	Amending Chapter 9 of The Philadelphia Code, entitled “Regulation of Businesses, Trades and Professions,” by adding a new Chapter related to hiring entities providing covered individuals with a workforce and career pathways information sheet; all under certain terms and conditions.				
Sponsors:	Councilmember Gilmore Richardson, Councilmember Parker, Councilmember Brooks, Councilmember Domb, Councilmember Henon, Councilmember Gym, Councilmember Bass, Councilmember Thomas				
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Date	Ver.	Action By	Action	Result	Tally
7/15/2021	1	MAYOR	SIGNED		
6/24/2021	1	CITY COUNCIL	READ AND PASSED	Pass	17:0
6/17/2021	1	CITY COUNCIL	SUSPEND THE RULES OF THE COUNCIL		
6/17/2021	1	CITY COUNCIL	ORDERED PLACED ON THIS DAY`S FIRST READING CALENDAR		
6/17/2021	1	CITY COUNCIL	READ AND ORDERED PLACED ON NEXT WEEK'S SECOND READING CALENDAR		
6/10/2021	0	Committee on Labor and Civil Service	HEARING NOTICES SENT		
6/10/2021	0	Committee on Labor and Civil Service	HEARING HELD		
6/10/2021	0	Committee on Labor and Civil Service	AMENDED		
6/10/2021	1	Committee on Labor and Civil Service	REPORTED FAVORABLY, RULE SUSPENSION REQUESTED		
5/13/2021	0	CITY COUNCIL	Introduced and Referred		

Amending Chapter 9 of The Philadelphia Code, entitled “Regulation of Businesses, Trades and Professions,” by adding a new Chapter related to hiring entities providing covered individuals with a workforce and career pathways information sheet; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 9 of The Philadelphia Code is amended to read as follows:

* * *

Chapter 9-5500. Workforce and career pathways information sheet

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§ 9-5501. Definitions. The following definitions shall apply in this Chapter:

(1) Covered individual. Covered individual includes all employees and the following individuals, without regard to whether the individual is regarded as an employee, provided such individuals perform work within the geographic boundaries of the City of Philadelphia for at least 40 hours in a year for one or more hiring entities:

(a) Any individual who works in residence for the purposes of caring for a child, serving as a companion or caretaker for a sick convalescing, elderly or a person with a disability; housekeeping or house cleaning; cooking; providing food or butler service; parking cars; cleaning laundry; gardening; personal organizing, or for any other domestic service purpose, regardless of whether such individual works for one or more hiring entities.

(b) Any individual providing services under the participant directed and agency homecare model.

(c) Any individual that works for a transportation network company, including those individuals who work as a driver. A transportation network company means an organization whether a corporation, partnership, sole proprietor, or other form, licensed or required to be licensed operating in the City of Philadelphia, that offers prearranged transportation services for compensation using an online-enabled application or platform, such as an application dispatch system, to connect passengers with drivers.

(d) Any individual that works as a health care professional only when such individual indicates that the individual is available for work and who has no obligation to work when the individual does not indicate availability.

(2) Department. The Department of Labor

(3) Employee. Any individual employed by a hiring entity who performs work within the geographic boundaries of the City of Philadelphia for at least 40 hours in a year. There shall be a rebuttable presumption that any individual performing work for a hiring entity is an employee unless the hiring entity can demonstrate the following conditions are satisfied:

(a) The individual is free from the control and direction of the hiring entity in connection with the performance of the labor or services, both under the contract for the performance of the work and in fact;

(b) The individual performs labor or services that are outside the usual course of the hiring entity's business;

(c) The individual is customarily engaged in an independently established trade, occupation, profession, or business of the same nature as that involved in the labor or services performed.

(4) Food delivery network company. A food delivery network company means an organization whether a corporation, partnership, sole proprietor, or other form, operating in the City of Philadelphia, that offers prearranged delivery services for compensation using an online-enabled application or platform, such as an application dispatch system, to connect customers with workers for delivery from one or more of the following: (1) eating and drinking establishments, (2) food processing establishments, (3) grocery stores, or (4) any facility supplying groceries or prepared food and beverages for an online order.

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(5) Hiring entity. Hiring entity means any employer who employs a covered individual, as well as any individual, partnership, association, corporation, business trust or combination thereof, that pays a wage or wages for the services of a covered individual. It includes any such entity, person or group of persons that provides compensation directly or indirectly to a covered individual for the performance of work or services and any such entity, person or persons acting directly or indirectly in the interest of the hiring entity in relation to the covered individual. It does not include any such entity, person, or group of persons that the City is legally prohibited from regulating under federal or state law.

(6) Third-Party food delivery service worker. Any individual that works for a food delivery network company, including as a driver.

(7) Transportation network company. A transportation network company means an organization whether a corporation, partnership, sole proprietor, or other form, licensed or required to be licensed operating in the City of Philadelphia, that offers prearranged transportation services for compensation using an online-enabled application or platform, such as an application dispatch system, to connect passengers with drivers.

(8) Transportation network company worker. Any individual that works for a transportation network company, including those individuals who work as a driver.

(9) Workforce and career pathways information sheet. A sheet that includes information on jobless benefits, career and technical skills training, educational opportunities, and such other related information.

(10) Workforce development providers. Any organization dedicated to providing career assistance, job skills training, or education for individuals, or dedicated to connecting individuals to other organizations providing career assistance, job skills training, or education.

§ 9-5502. Workforce and career pathways information sheet.

(1) The Department, after consultation with workforce development providers, is authorized to create and adopt a workforce and career pathways information sheet. It is the intent of Council that the Department shall make such sheet within six months of the effective date of this Section.

(2) Hiring entities shall give notice to covered individuals that covered individuals are entitled to receive a workforce and career pathways sheet under this Chapter within thirty (30) days from the effective date of Section 9-5503 ("Required Distribution").

(a) Hiring Entities may comply with this Section by either (i) supplying each covered individual employed with a notice that contains the information required this subsection (2); or (ii) displaying a poster that contains all information required under subsection (2) in a conspicuous and accessible place in each establishment where such covered individuals are employed.

(b) The notice required under this subsection (2) shall be in English and in any language that is the first language spoken by at least five percent (5%) of the hiring entities workforce.

(c) The Department is authorized to create and make available to employers notice that contains the information required under subsection (2) for their use in complying with this subsection.

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(3) It is Council's intent that the Department make available the workforce and career pathways information sheet for employers to have easy access. The failure of the Department to notify a hiring entity, a food delivery network company, or a transportation network company shall not be a defense to a violation of §9 -5503.

(4) It is Council's intent that the Department review and, if necessary, update the workforce and career pathways information sheet periodically.

(5) The Department is authorized to promulgate regulations to implement this Chapter 9-5500.

§ 9-5503. Required Distribution.

(1) Except as provided in paragraph (a), upon a covered individual's separation of employment from a hiring entity, the hiring entity shall provide such covered individual with a workforce and career pathways information sheet at the time of notice of separation if the employer initiates the separation or, 30 days after the earlier of an employee's notice of separation or actual separation from employment in all other cases.

(a) This subsection shall not apply to a food delivery network company or a transportation network company.

(b) This subsection can be satisfied by providing the covered individual an electronic version of the workforce and career pathways information sheet via electronic communication.

(2) A food delivery network company shall provide each third-party food delivery service worker that does work for such company a copy of the workforce and career pathways information sheet (a) within thirty (30) days from the effective date of this Section 9-5503; or (b) the day the third-party food delivery service worker first commences work for the food delivery network company, if such work first commences more than thirty (30) days after the effective date of this Section 9-5503.

(3) A transportation network company shall provide each transportation network company workers that does work for such company a copy of the workforce and career pathways information sheet (a) within thirty (30) days from the effective date of this Section 9-5503; or (b) the day the transportation network company worker first commences work for transportation network company, if such work first commences more than thirty (30) days after the effective date of this Section 9-5503.

§ 9-5504. Enforcement.

(1) A covered individual or other person may report to the Department any suspected violation of this Chapter.

(2) The Department is authorized to take such steps as deemed appropriate to resolve complaints and enforce this Chapter, including, but not limited to, establishing a system to receive complaints regarding non-compliance with this Chapter, investigating alleged violations in a timely manner, and resolving complaints through mediation.

(3) Any person alleging a violation of this Chapter shall file a complaint with the Department within

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six months of the date the person knew or should have known of the alleged violation. The Department shall maintain confidential the identity of any complainant unless disclosure of such complainant's identity is necessary for resolution of any investigation by the Department, or otherwise required by law. The Department shall, to the extent practicable, notify such complainant that the Department will be disclosing his or her identity prior to such disclosure.

§ 9-5505. Penalties.

Any hiring entity in violation of Section 9-5503 shall be subject to a civil penalty not to exceed $300 for each offense.

SECTION 2. This Ordinance shall take effect immediately, with the exception of Sections 9-5503 and 9-5504 of the Code, which shall take effect immediately upon the Director of the Department of Labor certification to the Chief Clerk of City Council that the workforce and career pathways information sheet authorized under Section 1 of this Ordinance is publicly available on the Department of Labor's website.

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Explanation:
Italics indicate new matter added.

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