

AN ORDINANCE

Amending Title 9 of The Philadelphia Code, entitled “Regulation of Businesses, Trades and Professions,” by adding a new Chapter entitled “Employee Commuter Transit Benefit Programs,” to require certain employers to provide a mass transit and bicycle commuter benefit program, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

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

TITLE 9. REGULATION OF BUSINESSES, TRADES AND PROFESSIONS.

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CHAPTER 9-6000. EMPLOYEE COMMUTER TRANSIT BENEFIT PROGRAMS.

§ 9-6001. Definitions.

(1) *Agency.* The office or agency designated by the Mayor for administration and enforcement of this Chapter.

(2) *Commuter Highway Vehicle.* As defined at 26 U.S.C. § 132(f)(5)(B), as it may be amended from time to time.

(3) *Covered Employee.* Any person who performed an average of at least thirty (30) hours of work per week, for compensation, within the geographic boundaries of Philadelphia for the same employer within the previous twelve months.

(4) *Covered Employer.* An individual, co-partnership, association, corporation, or any other entity, who or that employs fifty (50) or more Covered Employees, for compensation; but excluding government employers.

(5) *Fare Instrument.* Any pass, token, fare card, or similar item entitling a person to transportation on public transit.

(6) *Mass Transit Expense.* Expense incurred for:

(a) a Fare Instrument; or

(b) transportation in a Commuter Highway Vehicle, if such transportation is in connection with travel between an employee’s residence and workplace.

(7) *Qualified Bicycle Expense.* Reasonable expenses incurred by a Covered Employee who regularly uses a bicycle for commuting to and from work, including the purchase,

maintenance, repair and storage expenses related to bicycle commuting, as allowed under the Internal Revenue Code, 26 U.S.C. § 132(f)(1)(D) and (f)(5)(F).

§ 9-6002. Employee Commuter Transit Benefit.

(1) Every Covered Employer shall make available to all of its Covered Employees at least one of the following employee commuter transit benefit programs:

(a) Election of a pre-tax, payroll deduction for Mass Transit Expense, consistent with sections 132(f)(1)(A) and (B) of the Internal Revenue Code, 26 U.S.C. §132(f), at benefit levels at least equal to the maximum amount that may be deducted for such programs pursuant to §132(f)(2) of the Internal Revenue Code, as amended from time to time; or

(b) An employer-paid benefit whereby the Covered Employer supplies a Fare Instrument for a Covered Employee's Mass Transit Expense, at benefit levels at least equal to the maximum amount that may be deducted for such programs pursuant to §132(f)(2) of the Internal Revenue Code, as amended from time to time; or

(c) Any combination of programs described at § 9-6002(1)(a) and (b).

(2) Covered Employers shall also offer, as an alternative benefit program for Covered Employees who regularly use a bicycle for commuting to and from work, a tax-free reimbursement of Qualified Bicycle Expenses, up to the amount of \$20 per month, or in such amount as Section 132(f) of the Internal Revenue Code may permit.

§ 9-6003. Enforcement and Penalties.

(1) The Agency shall make compliance information and instructional materials regarding the requirements of this Chapter available to Covered Employers.

(2) An employee alleging a violation of this Chapter may report such violation to the Agency, which shall investigate and attempt to mediate the complaint, including by providing information to the employer regarding its obligations under this Chapter. If the Agency determines, following a 30-day mediation period, that the employer is a Covered Employer and is not in compliance with this Chapter, it shall issue a written warning, directing the Covered Employer to come into compliance or face penalties.

(3) If the Covered Employer is not in compliance with this Chapter within 30 days following the written warning, the Agency may ask the Law Department to ask a court of competent jurisdiction to compel compliance, and to impose fines as provided at Section 9-105(1) of this Code. Each day that the Covered Employer fails to comply with this Chapter shall constitute a separate violation.

SECTION 2. Effective Date. This ordinance shall take effect on December 31, 2022.