

1 and Emergency Deficit Control Act of 1985 shall be avail-
2 able (or rescinded or transferred, if applicable) only if the
3 President subsequently so designates all such amounts
4 and transmits such designations to the Congress.

5 “SEC. 1707. Any amount appropriated by this Act,
6 designated by the Congress as an emergency requirement
7 pursuant to section 251(b)(2)(A)(i) of the Balanced Budg-
8 et and Emergency Deficit Control Act of 1985 and subse-
9 quently so designated by the President, and transferred
10 pursuant to transfer authorities provided by this Act shall
11 retain such designation.

12 ““This division may be cited as the ‘Second
13 Coronavirus Preparedness and Response Supplemental
14 Appropriations Act, 2020’.”.

15 (2) Amend division C to read as follows:

16 **“DIVISION C—EMERGENCY FAM-**
17 **ILY AND MEDICAL LEAVE EX-**
18 **PANSION ACT**

19 **“SEC. 3101. SHORT TITLE.**

20 “This Act may be cited as ‘Emergency Family and
21 Medical Leave Expansion Act’.

22 **“SEC. 3102. AMENDMENTS TO THE FAMILY AND MEDICAL**
23 **LEAVE ACT OF 1993.**

24 “(a) PUBLIC HEALTH EMERGENCY LEAVE.—

1 “(1) IN GENERAL.—Section 102(a)(1) of the
2 Family and Medical Leave Act of 1993 (29 U.S.C.
3 2612(a)(1)) is amended by adding at the end the
4 following:

5 “(F) During the period beginning on the
6 date the Emergency Family and Medical Leave
7 Expansion Act takes effect, and ending on De-
8 cember 31, 2020, because of a qualifying need
9 related to a public health emergency in accord-
10 ance with section 110.’.

11 “(2) PAID LEAVE REQUIREMENT.—Section
12 102(c) of the Family and Medical Leave Act of 1993
13 (29 U.S.C. 2612(c)) is amended by striking ‘under
14 subsection (a)’ and inserting ‘under subsection (a)
15 (other than certain periods of leave under subsection
16 (a)(1)(F))’.

17 “(b) REQUIREMENTS.—Title I of the Family and
18 Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.) is
19 amended by adding at the end the following:

20 **“SEC. 110. PUBLIC HEALTH EMERGENCY LEAVE.**

21 “(a) DEFINITIONS.—The following shall apply with
22 respect to leave under section 102(a)(1)(F):

23 “(1) APPLICATION OF CERTAIN TERMS.—The
24 definitions in section 101 shall apply, except as fol-
25 lows:

1 “(A) ELIGIBLE EMPLOYEE.—In lieu of
2 the definition in sections 101(2)(A) and
3 101(2)(B)(ii), the term “eligible employee”
4 means an employee who has been employed for
5 at least 30 calendar days by the employer with
6 respect to whom leave is requested under sec-
7 tion 102(a)(1)(F).

8 “(B) EMPLOYER THRESHOLD.—Section
9 101(4)(A)(i) shall be applied by substituting
10 “fewer than 500 employees” for “50 or more
11 employees for each working day during each of
12 20 or more calendar workweeks in the current
13 or preceding calendar year”.

14 “(2) ADDITIONAL DEFINITIONS.—In addition
15 to the definitions described in paragraph (1), the fol-
16 lowing definitions shall apply with respect to leave
17 under section 102(a)(1)(F):

18 “(A) QUALIFYING NEED RELATED TO A
19 PUBLIC HEALTH EMERGENCY.—The term
20 “qualifying need related to a public health
21 emergency”, with respect to leave, means the
22 employee is unable to work (or telework) due to
23 a need for leave to care for the son or daughter
24 under 18 years of age of such employee if the
25 school or place of care has been closed, or the

1 child care provider of such son or daughter is
2 unavailable, due to a public health emergency.

3 “(B) PUBLIC HEALTH EMERGENCY.—The
4 term “public health emergency” means an
5 emergency with respect to COVID-19 declared
6 by a Federal, State, or local authority.

7 “(C) CHILD CARE PROVIDER.—The term
8 “child care provider” means a provider who re-
9 ceives compensation for providing child care
10 services on a regular basis, including an “eligi-
11 ble child care provider” (as defined in section
12 658P of the Child Care and Development Block
13 Grant Act of 1990 (42 U.S.C. 9858n)).

14 “(D) SCHOOL.—The term “school” means
15 an “elementary school” or “secondary school”
16 as such terms are defined in section 8101 of
17 the Elementary and Secondary Education Act
18 of 1965 (20 U.S.C. 7801).

19 “(3) REGULATORY AUTHORITIES.—The Sec-
20 retary of Labor shall have the authority to issue reg-
21 ulations for good cause under sections 553(b)(B)
22 and 553(d)(A) of title 5, United States Code—

23 “(A) to exclude certain health care pro-
24 viders and emergency responders from the defi-

1 nition of eligible employee under section
2 110(a)(1)(A); and

3 ““(B) to exempt small businesses with
4 fewer than 50 employees from the requirements
5 of section 102(a)(1)(F) when the imposition of
6 such requirements would jeopardize the viability
7 of the business as a going concern.

8 ““(b) RELATIONSHIP TO PAID LEAVE.—

9 ““(1) UNPAID LEAVE FOR INITIAL 10 DAYS.—

10 ““(A) IN GENERAL.—The first 10 days for
11 which an employee takes leave under section
12 102(a)(1)(F) may consist of unpaid leave.

13 ““(B) EMPLOYEE ELECTION.—An em-
14 ployee may elect to substitute any accrued vaca-
15 tion leave, personal leave, or medical or sick
16 leave for unpaid leave under section
17 102(a)(1)(F) in accordance with section
18 102(d)(2)(B).

19 ““(2) PAID LEAVE FOR SUBSEQUENT DAYS.—

20 ““(A) IN GENERAL.—An employer shall
21 provide paid leave for each day of leave under
22 section 102(a)(1)(F) that an employee takes
23 after taking leave under such section for 10
24 days.

25 ““(B) CALCULATION.—

1 “(i) IN GENERAL.—Subject to clause
2 (ii), paid leave under subparagraph (A) for
3 an employee shall be calculated based on—

4 “(I) an amount that is not less
5 than two-thirds of an employee’s reg-
6 ular rate of pay (as determined under
7 section 7(e) of the Fair Labor Stand-
8 ards Act of 1938 (29 U.S.C. 207(e));
9 and

10 “(II) the number of hours the
11 employee would otherwise be normally
12 scheduled to work (or the number of
13 hours calculated under subparagraph
14 (C)).

15 “(ii) CLARIFICATION.—In no event
16 shall such paid leave exceed \$200 per day
17 and \$10,000 in the aggregate.

18 “(C) VARYING SCHEDULE HOURS CAL-
19 CULATION.—In the case of an employee whose
20 schedule varies from week to week to such an
21 extent that an employer is unable to determine
22 with certainty the number of hours the em-
23 ployee would have worked if such employee had
24 not taken leave under section 102(a)(1)(F), the

1 employer shall use the following in place of such
2 number:

3 “(i) Subject to clause (ii), a number
4 equal to the average number of hours that
5 the employee was scheduled per day over
6 the 6-month period ending on the date on
7 which the employee takes such leave, in-
8 cluding hours for which the employee took
9 leave of any type.

10 “(ii) If the employee did not work
11 over such period, the reasonable expecta-
12 tion of the employee at the time of hiring
13 of the average number of hours per day
14 that the employee would normally be
15 scheduled to work.

16 “(c) NOTICE.—In any case where the necessity for
17 leave under section 102(a)(1)(F) for the purpose described
18 in subsection (a)(2)(A)(iii) is foreseeable, an employee
19 shall provide the employer with such notice of leave as is
20 practicable.

21 “(d) RESTORATION TO POSITION.—

22 “(1) IN GENERAL.—Section 104(a)(1) shall
23 not apply with respect to an employee of an em-
24 ployer who employs fewer than 25 employees if the
25 conditions described in paragraph (2) are met.

1 “(2) CONDITIONS.—The conditions described
2 in this paragraph are the following:

3 “(A) The employee takes leave under sec-
4 tion 102(a)(1)(F).

5 “(B) The position held by the employee
6 when the leave commenced does not exist due to
7 economic conditions or other changes in oper-
8 ating conditions of the employer—

9 “(i) that affect employment; and

10 “(ii) are caused by a public health
11 emergency during the period of leave.

12 “(C) The employer makes reasonable ef-
13 forts to restore the employee to a position
14 equivalent to the position the employee held
15 when the leave commenced, with equivalent em-
16 ployment benefits, pay, and other terms and
17 conditions of employment.

18 “(D) If the reasonable efforts of the em-
19 ployer under subparagraph (C) fail, the em-
20 ployer makes reasonable efforts during the pe-
21 riod described in paragraph (3) to contact the
22 employee if an equivalent position described in
23 subparagraph (C) becomes available.

1 “(3) CONTACT PERIOD.—The period described
2 under this paragraph is the 1-year period beginning
3 on the earlier of—

4 “(A) the date on which the qualifying
5 need related to a public health emergency con-
6 cludes; or

7 “(B) the date that is 12 weeks after the
8 date on which the employee’s leave under sec-
9 tion 102(a)(1)(F) commences. ’.

10 **“SEC. 3103. EMPLOYMENT UNDER MULTI-EMPLOYER BAR-**
11 **GAINING AGREEMENTS.**

12 “(a) EMPLOYERS.—An employer signatory to a mul-
13 tiemployer collective bargaining agreement may, con-
14 sistent with its bargaining obligations and its collective
15 bargaining agreement, fulfill its obligations under section
16 110(b)(2) of title I of the Family and Medical Leave Act
17 of 1993, as added by the Families First Coronavirus Re-
18 sponse Act, by making contributions to a multiemployer
19 fund, plan, or program based on the paid leave each of
20 its employees is entitled to under such section while work-
21 ing under the multiemployer collective bargaining agree-
22 ment, provided that the fund, plan, or program enables
23 employees to secure pay from such fund, plan, or program
24 based on hours they have worked under the multiemployer
25 collective bargaining agreement for paid leave taken under

1 section 102(a)(1)(F) of title I of the Family and Medical
2 Leave Act of 1993, as added by the Families First
3 Coronavirus Response Act.

4 “(b) EMPLOYEES.—Employees who work under a
5 multiemployer collective bargaining agreement into which
6 their employers make contributions as provided in sub-
7 section (a) may secure pay from such fund, plan, or pro-
8 gram based on hours they have worked under the multiem-
9 ployer collective bargaining agreement for paid leave taken
10 under section 102(a)(1)(F) of title I of the Family and
11 Medical Leave Act of 1993, as added by the Families First
12 Coronavirus Response Act.

13 **“SEC. 3104. SPECIAL RULE FOR CERTAIN EMPLOYERS.**

14 “ An employer under 110(a)(B) shall not be subject
15 to section 107(a) for a violation of section 102(a)(1)(F)
16 if the employer does not meet the definition of employer
17 set forth in Section 101(4)(A)(i).

18 **“SEC. 3105. SPECIAL RULE FOR HEALTH CARE PROVIDERS
19 AND EMERGENCY RESPONDERS.**

20 “An employer of an employee who is a health care
21 provider or an emergency responder may elect to exclude
22 such employee from the application of the provisions in
23 the amendments made under of section 3102 of this Act.

1 **“SEC. 3106. EFFECTIVE DATE.**

2 “ This Act shall take effect not later than 15 days
3 after the date of enactment of this Act.”.

4 (3) Amend division E to read as follows:

5 **“DIVISION E—EMERGENCY PAID**
6 **SICK LEAVE ACT**

7 **“SEC. 5101. SHORT TITLE.**

8 “This Act may be cited as the ‘Emergency Paid Sick
9 Leave Act’.

10 **“SEC. 5102. PAID SICK TIME REQUIREMENT.**

11 “(a) IN GENERAL.—An employer shall provide to
12 each employee employed by the employer paid sick time
13 to the extent that the employee is unable to work (or
14 telework) due to a need for leave because:

15 “(1) The employee is subject to a Federal,
16 State, or local quarantine or isolation order related
17 to COVID-19.

18 “(2) The employee has been advised by a health
19 care provider to self-quarantine due to concerns re-
20 lated to COVID-19.

21 “(3) The employee is experiencing symptoms of
22 COVID-19 and seeking a medical diagnosis.

23 “(4) The employee is caring for an individual
24 who is subject to an order as described in subpara-
25 graph (1) or has been advised as described in para-
26 graph (2).