

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).

1 “(5) The employee is caring for a son or daugh-
2 ter of such employee if the school or place of care
3 of the son or daughter has been closed, or the child
4 care provider of such son or daughter is unavailable,
5 due to COVID-19 precautions.

6 “(6) The employee is experiencing any other
7 substantially similar condition specified by the Sec-
8 retary of Health and Human Services in consulta-
9 tion with the Secretary of the Treasury and the Sec-
10 retary of Labor.

11 Except that an employer of an employee who is a health
12 care provider or an emergency responder may elect to ex-
13 clude such employee from the application of this sub-
14 section.

15 “(b) DURATION OF PAID SICK TIME.—

16 “(1) IN GENERAL.—An employee shall be enti-
17 tled to paid sick time for an amount of hours deter-
18 mined under paragraph (2).

19 “(2) AMOUNT OF HOURS.—The amount of
20 hours of paid sick time to which an employee is enti-
21 tled shall be as follows:

22 “(A) For full-time employees, 80 hours.

23 “(B) For part-time employees, a number
24 of hours equal to the number of hours that

1 such employee works, on average, over a 2-week
2 period.

3 “(3) CARRYOVER.—Paid sick time under this
4 section shall not carry over from 1 year to the next.

5 “(c) EMPLOYER’S TERMINATION OF PAID SICK
6 TIME.—Paid sick time provided to an employee under this
7 Act shall cease beginning with the employee’s next sched-
8 uled workshift immediately following the termination of
9 the need for paid sick time under subsection (a).

10 “(d) PROHIBITION.—An employer may not require,
11 as a condition of providing paid sick time under this Act,
12 that the employee involved search for or find a replace-
13 ment employee to cover the hours during which the em-
14 ployee is using paid sick time.

15 “(e) USE OF PAID SICK TIME.—

16 “(1) IN GENERAL.—The paid sick time under
17 subsection (a) shall be available for immediate use
18 by the employee for the purposes described in such
19 subsection, regardless of how long the employee has
20 been employed by an employer.

21 “(2) SEQUENCING.—

22 “(A) IN GENERAL.—An employee may first
23 use the paid sick time under subsection (a) for
24 the purposes described in such subsection.

1 “(B) PROHIBITION.—An employer may not
2 require an employee to use other paid leave pro-
3 vided by the employer to the employee before
4 the employee uses the paid sick time under sub-
5 section (a).

6 **“SEC. 5103. NOTICE.**

7 “(a) IN GENERAL.—Each employer shall post and
8 keep posted, in conspicuous places on the premises of the
9 employer where notices to employees are customarily post-
10 ed, a notice, to be prepared or approved by the Secretary
11 of Labor, of the requirements described in this Act.

12 “(b) MODEL NOTICE.—Not later than 7 days after
13 the date of enactment of this Act, the Secretary of Labor
14 shall make publicly available a model of a notice that
15 meets the requirements of subsection (a).

16 **“SEC. 5104. PROHIBITED ACTS.**

17 “It shall be unlawful for any employer to discharge,
18 discipline, or in any other manner discriminate against
19 any employee who—

20 “(1) takes leave in accordance with this Act;
21 and

22 “(2) has filed any complaint or instituted or
23 caused to be instituted any proceeding under or re-
24 lated to this Act (including a proceeding that seeks

1 enforcement of this Act), or has testified or is about
2 to testify in any such proceeding.

3 **“SEC. 5105. ENFORCEMENT.**

4 “(a) UNPAID SICK LEAVE.—An employer who vio-
5 lates section 5102 shall—

6 “(1) be considered to have failed to pay min-
7 imum wages in violation of section 6 of the Fair
8 Labor Standards Act of 1938 (29 U.S.C. 206); and

9 “(2) be subject to the penalties described in
10 sections 16 and 17 of such Act (29 U.S.C. 216;
11 217) with respect to such violation.

12 “(b) UNLAWFUL TERMINATION.—An employer who
13 willfully violates section 5104 shall—

14 “(1) be considered to be in violation of section
15 15(a)(3) of the Fair Labor Standards Act of 1938
16 (29 U.S.C. 215(a)(3)); and

17 “(2) be subject to the penalties described in
18 sections 16 and 17 of such Act (29 U.S.C. 216;
19 217) with respect to such violation.

20 **“SEC. 5106. EMPLOYMENT UNDER MULTI-EMPLOYER BAR-**
21 **GAINING AGREEMENTS.**

22 “(a) EMPLOYERS.—An employer signatory to a mul-
23 tiemployer collective bargaining agreement may, con-
24 sistent with its bargaining obligations and its collective
25 bargaining agreement, fulfill its obligations under this Act

1 by making contributions to a multiemployer fund, plan,
2 or program based on the hours of paid sick time each of
3 its employees is entitled to under this Act while working
4 under the multiemployer collective bargaining agreement,
5 provided that the fund, plan, or program enables employ-
6 ees to secure pay from such fund, plan, or program based
7 on hours they have worked under the multiemployer collec-
8 tive bargaining agreement and for the uses specified under
9 section 5102(a).

10 “(b) EMPLOYEES.—Employees who work under a
11 multiemployer collective bargaining agreement into which
12 their employers make contributions as provided in sub-
13 section (a) may secure pay from such fund, plan, or pro-
14 gram based on hours they have worked under the multiem-
15 ployer collective bargaining agreement for the uses speci-
16 fied in section 5102(a).

17 **“SEC. 5107. RULES OF CONSTRUCTION.**

18 “Nothing in this Act shall be construed—

19 “(1) to in any way diminish the rights or bene-
20 fits that an employee is entitled to under any—

21 “(A) other Federal, State, or local law;

22 “(B) collective bargaining agreement; or

23 “(C) existing employer policy; or

24 “(2) to require financial or other reimburse-
25 ment to an employee from an employer upon the em-

1 ployee’s termination, resignation, retirement, or
2 other separation from employment for paid sick time
3 under this Act that has not been used by such em-
4 ployee.

5 **“SEC. 5108. EFFECTIVE DATE.**

6 “This Act, and the requirements under this Act, shall
7 take effect not later than 15 days after the date of enact-
8 ment of this Act.

9 **“SEC. 5109. SUNSET.**

10 “This Act, and the requirements under this Act, shall
11 expire on December 31, 2020.

12 **“SEC. 5110. DEFINITIONS.**

13 “For purposes of the Act:

14 “(1) EMPLOYEE.—The terms ‘employee’ means
15 an individual who is—

16 “(A)(i) an employee, as defined in section
17 3(e) of the Fair Labor Standards Act of 1938
18 (29 U.S.C. 203(e)), who is not covered under
19 subparagraph (E) or (F), including such an em-
20 ployee of the Library of Congress, except that
21 a reference in such section to an employer shall
22 be considered to be a reference to an employer
23 described in clauses (i)(I) and (ii) of paragraph
24 (5)(A); or

1 “(ii) an employee of the Government Ac-
2 countability Office;

3 “(B) a State employee described in section
4 304(a) of the Government Employee Rights Act
5 of 1991 (42 U.S.C. 2000e–16c(a));

6 “(C) a covered employee, as defined in sec-
7 tion 101 of the Congressional Accountability
8 Act of 1995 (2 U.S.C. 1301), other than an ap-
9 plicant for employment;

10 “(D) a covered employee, as defined in sec-
11 tion 411(e) of title 3, United States Code;

12 “(E) a Federal officer or employee covered
13 under subchapter V of chapter 63 of title 5,
14 United States Code; or

15 “(F) any other individual occupying a posi-
16 tion in the civil service (as that term is defined
17 in section 2101(1) of title 5, United States
18 Code).

19 “(2) EMPLOYER.—

20 “(A) IN GENERAL.—The term ‘employer’
21 means a person who is—

22 “(i)(I) a covered employer, as defined
23 in subparagraph (B), who is not covered
24 under subelause (V);

1 “(II) an entity employing a State em-
2 ployee described in section 304(a) of the
3 Government Employee Rights Act of 1991;

4 “(III) an employing office, as defined
5 in section 101 of the Congressional Ac-
6 countability Act of 1995;

7 “(IV) an employing office, as defined
8 in section 411(c) of title 3, United States
9 Code; or

10 “(V) an Executive Agency as defined
11 in section 105 of title 5, United States
12 Code, and including the U.S. Postal Serv-
13 ice and the Postal Regulatory Commission;
14 and

15 “(ii) engaged in commerce (including
16 government), or an industry or activity af-
17 fecting commerce (including government),
18 as defined in subparagraph (B)(iii).

19 “(B) COVERED EMPLOYER.—

20 “(i) IN GENERAL.—In subparagraph
21 (A)(i)(I), the term ‘covered employer’—

22 “(I) means any person engaged
23 in commerce or in any industry or ac-
24 tivity affecting commerce that—

1 “(aa) in the case of a pri-
2 vate entity or individual, employs
3 fewer than 500 employees; and

4 “(bb) in the case of a public
5 agency or any other entity that is
6 not a private entity or individual,
7 employs 1 or more employees;

8 “(II) includes—

9 “(aa) includes any person
10 acting directly or indirectly in the
11 interest of an employer in rela-
12 tion to an employee (within the
13 meaning of such phrase in sec-
14 tion 3(d) of the Fair Labor
15 Standards Act of 1938 (29
16 U.S.C. 203(d)); and

17 “(bb) any successor in inter-
18 est of an employer;

19 “(III) includes any ‘public agen-
20 cy’, as defined in section 3(x) of the
21 Fair Labor Standards Act of 1938
22 (29 U.S.C. 203(x)); and

23 “(IV) includes the Government
24 Accountability Office and the Library
25 of Congress.

1 “(ii) PUBLIC AGENCY.—For purposes
2 of clause (i)(IV), a public agency shall be
3 considered to be a person engaged in com-
4 merce or in an industry or activity affect-
5 ing commerce.

6 “(iii) DEFINITIONS.—For purposes of
7 this subparagraph:

8 “(I) COMMERCE.—The terms
9 ‘commerce’ and ‘industry or activity
10 affecting commerce’ means any activ-
11 ity, business, or industry in commerce
12 or in which a labor dispute would
13 hinder or obstruct commerce or the
14 free flow of commerce, and include
15 ‘commerce’ and any ‘industry affect-
16 ing commerce’, as defined in para-
17 graphs (1) and (3) of section 501 of
18 the Labor Management Relations Act
19 of 1947 (29 U.S.C. 142 (1) and (3)).

20 “(II) EMPLOYEE.—The term
21 ‘employee’ has the same meaning
22 given such term in section 3(e) of the
23 Fair Labor Standards Act of 1938
24 (29 U.S.C. 203(e)).

1 “(III) PERSON.—The term ‘per-
2 son’ has the same meaning given such
3 term in section 3(a) of the Fair Labor
4 Standards Act of 1938 (29 U.S.C.
5 203(a)).

6 “(3) FLSA TERMS.—The terms ‘employ’ and
7 ‘State’ have the meanings given such terms in sec-
8 tion 3 of the Fair Labor Standards Act of 1938 (29
9 U.S.C. 203).

10 “(4) FMLA TERMS.—The terms ‘health care
11 provider’ and ‘son or daughter’ have the meanings
12 given such terms in section 101 of the Family and
13 Medical Leave Act of 1993 (29 U.S.C. 2611).

14 “(5) PAID SICK TIME.—

15 “(A) IN GENERAL.—The term ‘paid sick
16 time’ means an increment of compensated leave
17 that—

18 “(i) is provided by an employer for
19 use during an absence from employment
20 for a reason described in any paragraph of
21 section 2(a); and

22 “(ii) is calculated based on the em-
23 ployee’s required compensation under sub-
24 paragraph (B) and the number of hours
25 the employee would otherwise be normally

1 scheduled to work (or the number of hours
2 calculated under subparagraph (C)), except
3 that in no event shall such paid sick time
4 exceed—

5 “(I) \$511 per day and \$5,110 in
6 the aggregate for a use described in
7 paragraph (1), (2), or (3) of section
8 5102(a); and

9 “(II) \$200 per day and \$2,000 in
10 the aggregate for a use described in
11 paragraph (4), (5), or (6) of section
12 5102(a).

13 “(B) REQUIRED COMPENSATION.—

14 “(i) IN GENERAL.—Subject to sub-
15 paragraph (A)(ii), the employee’s required
16 compensation under this subparagraph
17 shall be not less than the greater of the
18 following:

19 “(I) The employee’s regular rate
20 of pay (as determined under section
21 7(e) of the Fair Labor Standards Act
22 of 1938 (29 U.S.C. 207(e)).

23 “(II) The minimum wage rate in
24 effect under section 6(a)(1) of the

1 Fair Labor Standards Act of 1938
2 (29 U.S.C. 206(a)(1)).

3 “(III) The minimum wage rate in
4 effect for such employee in the appli-
5 cable State or locality, whichever is
6 greater, in which the employee is em-
7 ployed.

8 “(ii) SPECIAL RULE FOR CARE OF
9 FAMILY MEMBERS.—Subject to subpara-
10 graph (A)(ii), with respect to any paid sick
11 time provided for any use described in
12 paragraph (4), (5), or (6) of section
13 5102(a), the employee’s required com-
14 pensation under this subparagraph shall be
15 two-thirds of the amount described in
16 clause (B)(i).

17 “(C) VARYING SCHEDULE HOURS CAL-
18 CULATION.—In the case of a part-time em-
19 ployee described in section 5102(b)(2)(B) 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 paid sick time under section 2(a), 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 the paid sick
8 time, including hours for which the em-
9 ployee took 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 “(D) GUIDELINES.—Not later than 15
17 days after the date of the enactment of this
18 Act, the Secretary of Labor shall issue guide-
19 lines to assist employers in calculating the
20 amount of paid sick time under subparagraph
21 (A).

22 “(E) REASONABLE NOTICE.—After the
23 first workday (or portion thereof) an employee
24 receives paid sick time under this Act, an em-
25 ployer may require the employee to follow rea-

1 sonable notice procedures in order to continue
2 receiving such paid sick time.

3 **“SEC. 5111. REGULATORY AUTHORITIES.**

4 “The Secretary of Labor shall have the authority to
5 issue regulations for good cause under sections 553(b)(B)
6 and 553(d)(A) of title 5, United States Code—

7 “(1) to exclude certain health care providers
8 and emergency responders from the definition of em-
9 ployee under section 5110(1) including by allowing
10 the employer of such health care providers and
11 emergency responders to opt out;

12 “(2) to exempt small businesses with fewer than
13 50 employees from the requirements of section
14 5102(a)(5) when the imposition of such require-
15 ments would jeopardize the viability of the business
16 as a going concern; and

17 “(3) as necessary, to carry out the purposes of
18 this Act, including to ensure consistency between
19 this Act and Division C and Division G of the Fami-
20 lies First Coronavirus Response Act.”.

21 (4) Amend division F to read as follows: