

AMENDMENTS TO HOUSE BILL NO. 2412

Sponsor: SENATOR COSTA

Printer's No. 3720

1 Amend Bill, page 1, line 21, by striking out the period after
2 "provisions" and inserting
3 , for COVID-19 hazardous duty work, for isolation or quarantine
4 orders, for public health emergency leave and for employee
5 protections.

6 Amend Bill, page 2, lines 2 and 3, by striking out "an
7 article" and inserting
8 articles

9 Amend Bill, page 6, by inserting between lines 22 and 23

10 ARTICLE I-B

11 COVID-19 HAZARDOUS DUTY WORK

12 Section 101-B. Work-related hazardous duty.

13 (a) Presumption of work-related hazardous duty.--
14 Notwithstanding any other provision of law or regulation to the
15 contrary, an individual employed by a life-sustaining business
16 or occupation who contracts, has symptoms of or is otherwise
17 exposed to an infectious disease, including COVID-19
18 (coronavirus) or any other novel virus or infectious disease
19 during the declaration of a disaster emergency under 35 Pa.C.S.
20 § 7301 (relating to general authority of Governor), the
21 declaration of an epidemic or a public health emergency in this
22 Commonwealth by the Governor or a pandemic, which results in a
23 period of hospitalization, quarantine, isolation or other
24 control measures due to such infection or exposure, shall
25 establish a presumption that the individual's medical condition
26 or inability to work is work-related hazardous duty.

27 (b) Hazardous duty deemed on-duty time.--An individual with
28 an established presumption of work-related hazardous duty under
29 subsection (a) may not be required to use sick time, vacation
30 time, personal time or any other accrued paid time off or
31 contractual time off to cover the period of incapacitation or
32 inability to work.

33 (c) Eligibility and qualification; unemployment and workers'
34 compensation.--

35 (1) Notwithstanding any provision of the act of December

1 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the
2 Unemployment Compensation Law, an individual with an
3 established presumption of work-related hazardous duty under
4 subsection (a) shall be eligible and qualified for
5 unemployment compensation for the duration of the period of
6 incapacitation or inability to work.

7 (2) Notwithstanding any provision of the act of June 2,
8 1915 (P.L.736, No.338), known as the Workers' Compensation
9 Act, an individual with an established presumption of work-
10 related hazardous duty under subsection (a) shall be eligible
11 and qualified for workers' compensation for all medical costs
12 related to such infection or exposure.

13 (d) Applicability.--Notwithstanding subsection (a), this
14 section shall apply to individuals who work for a non-life-
15 sustaining business or occupation that receives a waiver from
16 the Department of Community and Economic Development authorizing
17 the non-life-sustaining business or occupation to continue
18 business operations during the period of time that a declaration
19 of a disaster or public health emergency is effective.

20 Section 102-B. Definitions.

21 The following words and phrases when used in this article
22 shall have the meanings given to them in this section unless the
23 context clearly indicates otherwise:

24 "COVID-19." The novel coronavirus, otherwise known as COVID-
25 19.

26 "Individual employed by a life-sustaining business or
27 occupation." Front-line employees and other individuals
28 employed by or under contract with a life-sustaining business or
29 entity who work during the declaration of a disaster emergency
30 or a public health emergency. The term shall include, but not
31 limited to:

32 (1) First responders, including law enforcement
33 officers, firefighters, emergency medical technicians and
34 other individuals who are considered to be first responders.

35 (2) Corrections officers.

36 (3) Emergency services dispatchers.

37 (4) Ambulance drivers.

38 (5) Retail workers, including restaurant, food services
39 and grocery store workers, cashiers and other support staff.

40 (6) Food and agriculture workers.

41 (7) Medical, health care and public health workers,
42 including doctors, nursing professionals, physician
43 assistants and paramedics, and other support staff.

44 (8) Pharmacists and any cashiers and other pharmacy
45 support staff.

46 (9) Home healthcare workers.

47 (10) Public utility workers, including workers engaged
48 in providing telecommunications, energy, water and wastewater
49 services and public works.

50 (11) Any employee of State or local government.

51 (12) Trash collectors.

1 (13) Warehouse workers.

2 (14) Any other individual employed by a life-sustaining
3 business or occupation who is required to work during the
4 declaration of a disaster emergency or public health
5 emergency.

6 "Infectious disease." A disease which is caused by a
7 microorganism, such as a bacterium, virus, or protozoan, which
8 is not normally found in the human body, and which is capable of
9 causing infection. Some, but not all, infectious diseases are
10 contagious, meaning they can spread from person to person,
11 including COVID-19 or the coronavirus. Other infectious diseases
12 can spread from animals or insects to humans, but not from
13 person to person.

14 "Life-sustaining business or occupation." A list of
15 businesses or occupations, as designated by the Governor, which
16 performs or conducts a range of vital operations, functions and
17 services that are essential to assisting the Commonwealth and
18 its political subdivisions in protecting people and their
19 communities while ensuring continuity of functions critical and
20 essential to public health and safety, as well as economic and
21 homeland security, and which should continue normal operations,
22 appropriately modified to account for the Centers for Disease
23 Control and Prevention and the Department of Health workforce
24 and customer protection guidance, during the declaration of a
25 disaster or public health emergency.

26 "Public health emergency." An emergency declaration by the
27 Governor of an occurrence or imminent threat of a disease or
28 condition of critical public health importance with the
29 following characteristics:

30 (1) Is believed to be caused by any of the following:

31 (i) the emergence and spread of a novel or
32 previously controlled or eradicated infectious disease;
33 or

34 (ii) an infectious disease epidemic in this
35 Commonwealth or a pandemic.

36 (2) Poses a high probability of any of the following in
37 the affected population:

38 (i) Death.

39 (ii) Serious or long-term disabilities.

40 (iii) Widespread exposure to an infectious disease,
41 which poses a significant risk of substantial present or
42 future harm to the public health and safety.

43 ARTICLE I-C

44 ISOLATION OR QUARANTINE ORDERS

45 Section 101-C. Employees subject to isolation or quarantine.

46 (a) Prohibition.--Notwithstanding any other law to the
47 contrary, an employer in this Commonwealth may not terminate or
48 retaliate or discriminate against an employee who is complying
49 with any isolation or quarantine order or an employee who is the
50 primary caregiver of a family member who is complying with any
51 isolation or quarantine order.

1 (b) Reinstatement.--

2 (1) An employee who meets the criteria specified under
3 subsection (a), other than an employee in a temporary
4 position, shall be reinstated to a position of like
5 seniority, status and pay after being released from isolation
6 or quarantine if the employee:

7 (i) receives a certificate of completion of
8 isolation or quarantine issued by a public official, the
9 Department of Health or a local health facility;

10 (ii) is still qualified to perform the duties of the
11 position; and

12 (iii) submits an application for reemployment to the
13 employer within 90 days after being released from
14 isolation or quarantine.

15 (2) Paragraph (1) shall not apply if an employer's
16 circumstances have changed during the isolation or quarantine
17 period to make it unreasonable for the employer to comply
18 with paragraph (1).

19 (c) Penalties.--

20 (1) If an employer fails or refuses to comply with the
21 provisions of this section, an individual may bring a civil
22 action against the employer in a court of competent
23 jurisdiction to compel the employer to:

24 (i) comply with the provisions of this section; or

25 (ii) compensate the individual for any loss of wages
26 or benefits suffered by reason of the employer's failure
27 or refusal to comply with the provisions of this section.

28 (2) An individual who brings a civil action under
29 paragraph (1) may be represented by counsel, or upon
30 submitting an application to the Office of Attorney General,
31 request that the Office of Attorney General represent the
32 individual in accordance with section 204 of the act of
33 October 15, 1980 (P.L.950, No.164), known as the Commonwealth
34 Attorneys Act. If the Office of Attorney General is
35 reasonably satisfied that the individual has been aggrieved
36 by the employer in violation of this section, the Attorney
37 General may represent the individual.

38 (3) No fees or court costs shall be assessed against an
39 individual who brings a civil action under paragraph (1).
40 Attorney fees shall be awarded to the counsel of the
41 individual awarded damages in a civil action under paragraph
42 (1) or the Office of Attorney General if the Office of
43 Attorney General represents the individual.

44 ARTICLE I-D

45 PUBLIC HEALTH EMERGENCY LEAVE

46 SUBARTICLE A

47 PRELIMINARY PROVISIONS

48 Section 101-D. Definitions.

49 The following words and phrases when used in this article
50 shall have the meanings given to them in this section unless the
51 context clearly indicates otherwise:

1 "Department." The Department of Labor and Industry of the
2 Commonwealth.

3 "Employee." An individual who is employed by an employer
4 doing business in this Commonwealth.

5 "Employer." As defined in the act of January 17, 1968
6 (P.L.11, No.5), known as The Minimum Wage Act of 1968.

7 "Family member." Any of the following:

8 (1) A biological, adopted or foster child, stepchild or
9 legal ward, a child of a domestic partner or a child to whom
10 the employee stands in loco parentis, regardless of age.

11 (2) A biological, foster, stepparent or adoptive parent
12 or legal guardian of an employee or an employee's spouse or
13 domestic partner or a person who stood in loco parentis when
14 the employee or the employee's spouse or domestic partner was
15 a minor child.

16 (3) A person to whom the employee is legally married
17 under the laws of any state or a domestic partner of an
18 employee as registered under the laws of any state or
19 political subdivision.

20 (4) A grandparent, grandchild or sibling, whether of a
21 biological, foster, adoptive or step relationship, of the
22 employee or the employee's spouse or domestic partner.

23 (5) A person for whom the employee is responsible for
24 providing or arranging care, including helping that
25 individual obtain diagnostic, preventive, routine or
26 therapeutic health treatment.

27 (6) Any other individual related by blood or whose close
28 association with the employee is the equivalent of a family
29 relationship.

30 "Health care professional." A health care center or person,
31 including a corporation, university or other educational
32 institution licensed or approved by the Commonwealth to provide
33 health care or professional medical services as a physician,
34 certified nurse midwife, podiatrist, hospital, nursing home or
35 birth center or any other person licensed under Federal or State
36 law to provide medical or emergency services.

37 "Paid sick time." Time that is compensated at the same
38 hourly rate and with the same benefits, including health care
39 benefits, as the employee normally earns during hours worked and
40 is provided by an employer to an employee for the purposes of
41 section 110-D, but in no case shall this hourly amount be less
42 than the hourly amount under The Minimum Wage Act of 1968.

43 "Public health emergency." A threat to public health or
44 sufficient threat to be the subject of an emergency or disaster
45 declaration made by a Federal, State or local official with the
46 authority to declare the emergency.

47 "Public health emergency leave." Paid sick leave which must
48 be provided by an employer to an employee affected by a public
49 health emergency.

50 "Retaliatory personnel action." Denial of a right guaranteed
51 under this article or any actual or threatened discharge,

1 suspension, demotion, reduction of hours, reporting an
2 employee's suspected citizenship or immigration status, or the
3 suspected citizenship or immigration status of a family member
4 of the employee to a Federal, State or local department, or any
5 other adverse action against an employee for the exercise of any
6 right guaranteed herein, including any sanctions against an
7 employee who is the recipient of public benefits for rights
8 guaranteed under this article. Retaliation includes interference
9 with or punishment for in any manner participating in or
10 assisting an investigation, proceeding or hearing under this
11 article.

12 SUBARTICLE B

13 EMERGENCY LEAVE

14 Section 110-D. Establishment of public health emergency leave.

15 (a) Requirement.--Each employer of the Commonwealth shall
16 provide paid sick time to employees whose residence or
17 employment is affected by a public health emergency. An employer
18 shall provide the paid sick time in addition to any other leave
19 benefits available to employees by contract or policy. Public
20 health emergency leave shall be made available in accordance
21 with the following:

22 (1) An employee who normally works 40 or more hours in a
23 week shall be provided at least 112 hours of paid sick time.

24 (2) An employee who works fewer than 40 hours in a week
25 shall be provided an amount of paid sick time equal to the
26 amount of time the employee is otherwise scheduled to work or
27 works on average in a 14-day period.

28 (b) Immediate provisions.--The public health emergency leave
29 required under subsection (a) shall be provided to employees
30 immediately for the use of employees under section 113-D,
31 regardless of how long the employee has been employed.

32 (c) Usage.--An employee may use public health emergency
33 leave from the first date of the emergency or disaster
34 declaration until two weeks following the termination of the
35 declaration.

36 Section 111-D Notice.

37 Immediately after a declaration of a public health emergency
38 within the Commonwealth, an employer shall provide notice to all
39 employees of the eligibility to receive public health emergency
40 leave if the employee's residence or place of employment is part
41 of the area affected by the public health emergency.

42 Section 112-D. Ongoing threat.

43 If a public health emergency was declared before and remains
44 in effect on the effective date of this section, public health
45 emergency leave under this article shall be:

46 (1) provided to employees under section 110-D on the
47 effective date of this section; and

48 (2) made available retroactively to employees employed
49 on the effective date of this section.

50 Section 113-D. Use of public health emergency leave.

51 (a) Uses.--Nothing in this article shall be construed to

1 require an employee to use public health emergency leave if the
2 employee is able to perform work remotely. An employee may elect
3 to use public health emergency leave for any of the following
4 purposes regardless of the ability to work remotely:

5 (1) To care for oneself because:

6 (i) The employee is diagnosed with a communicable
7 illness related to a public health emergency.

8 (ii) The employee is experiencing symptoms of a
9 communicable illness related to a public health
10 emergency.

11 (iii) To seek or obtain medical diagnosis, care or
12 treatment if experiencing symptoms of a communicable
13 illness related to a public health emergency.

14 (iv) To seek preventive care concerning a
15 communicable illness related to a public health
16 emergency.

17 (2) To care for a family member who:

18 (i) Is self-isolating due to being diagnosed with a
19 communicable illness related to a public health
20 emergency.

21 (ii) Is self-isolating due to experiencing symptoms
22 of a communicable illness related to a public health
23 emergency.

24 (iii) Needs medical diagnosis, care or treatment if
25 experiencing symptoms of a communicable illness related
26 to a public health emergency.

27 (iv) Is seeking preventive care concerning a
28 communicable illness related to a public health
29 emergency.

30 (3) To adhere to a determination by a Federal, State or
31 local public official, a health authority having jurisdiction
32 or a health care provider that the employee's presence on the
33 job or in the community would jeopardize the health of others
34 because of the employee's exposure to a communicable illness
35 or exhibiting of symptoms, regardless of whether the employee
36 has been diagnosed with a communicable illness.

37 (4) To provide care to a family member due to a
38 determination by a Federal, State or local public official, a
39 health authority having jurisdiction or a health care
40 provider that the family member's presence on the job or in
41 the community would jeopardize the health of others because
42 of the family member's exposure to a communicable illness or
43 exhibiting of symptoms, regardless of whether the family
44 member has been diagnosed with a communicable illness.

45 (5) Closure of the employee's place of business by order
46 of a Federal, State or local public official or health
47 authority or at the discretion of the employer due to a
48 public health emergency.

49 (6) An employee's inability to work or telework while
50 under an individual or general Federal, State or local
51 quarantine or isolation order, including a shelter-in-place

1 order, related to the public health emergency.

2 (7) Care of a child or other family member when the care
3 provider of the individual is unavailable due to a public
4 health emergency or if the child's or family member's school
5 or place of care has been closed by a Federal, State or local
6 public official or at the discretion of the school or place
7 of care due to a public health emergency, including if a
8 school or place of care is physically closed but providing
9 instruction remotely.

10 (b) Notice.--The employee shall provide notice to the
11 employer of the need for paid sick time as practicable only when
12 the need for paid sick time is foreseeable and the employer's
13 place of business has not been closed.

14 (c) Limitations.--An employer may not require, as a
15 condition of an employee's taking paid sick time, that the
16 employee search for or find a replacement worker to cover the
17 hours during which the employee is using paid sick time.

18 (d) Increments.--Paid sick time may be used in the smaller
19 of hourly increments or the smallest increment that the
20 employer's payroll system uses to account for absences or use of
21 other time.

22 (e) Documentation.--Documentation may not be required for
23 paid sick time under this article.
24 Section 114-D. Additional leave.

25 If an employee is entitled to paid sick time under Federal
26 law for any of the purposes under this article, paid sick time
27 under this article shall be in addition to that paid sick leave
28 to the extent permitted by Federal law.

29 Section 115-D. Subrogation.

30 An employer may not require an employee to use other paid
31 leave provided by the employer to the employee before the
32 employee uses the public health emergency leave under this
33 article.

34 Section 116-D. Overtime.

35 Employees who are exempt from overtime requirements under 29
36 U.S.C. § 213(a) (1) (relating to exemptions) of the Fair Labor
37 Standards Act of 1938 (52 Stat. 1060, 29 U.S.C. § 201 et seq.)
38 will be assumed to work 40 hours in each work week for purposes
39 of paid sick time under this article unless their normal work
40 week is less than 40 hours, in which case paid sick time under
41 this article is based upon that normal work week.

42 Section 117-D. Termination.

43 Nothing in this section shall be construed as requiring
44 financial or other reimbursement to an employee from an employer
45 upon the employee's termination, resignation, retirement or
46 other separation from employment for paid sick time that has not
47 been used.

48 SUBARTICLE C

49 ENFORCEMENT

50 Section 121-D. Duties of department.

51 The department shall:

- 1 (1) Have authority to enforce this article.
- 2 (2) Be authorized to coordinate implementation and
- 3 enforcement of this article.
- 4 (3) Promulgate appropriate guidelines or regulations for
- 5 this article.
- 6 (4) Post the regulations and information about the
- 7 rights and duties of employees and employers under this
- 8 article on the department's publicly accessible Internet
- 9 website.

10 Section 122-D. Enforcement.

11 This article shall be enforced under section 9 of the act of

12 January 17, 1968 (P.L.11, No.5), known as The Minimum Wage Act

13 of 1968.

14 Section 123-D. Exercise of rights protected and retaliation

15 prohibited.

16 (1) It shall be unlawful for an employer or any other

17 person to interfere with, restrain or deny the exercise of or

18 the attempt to exercise any right protected under this

19 article.

20 (2) An employer may not take retaliatory personnel

21 action or discriminate against an employee or former employee

22 because the person has exercised rights protected under this

23 article. These rights include the following:

24 (i) The right to request or use paid sick time under

25 this article.

26 (ii) The right to file a complaint with the

27 department or courts or inform any person about any

28 employer's alleged violation of this article.

29 (iii) The right to participate in an investigation,

30 hearing or proceeding or cooperate with or assist the

31 department in its investigations of alleged violations of

32 this article.

33 (iv) The right to inform any person of his or her

34 potential rights under this article.

35 (3) It shall be unlawful for an employer's absence

36 control policy to count paid sick time taken under this

37 article as an absence that may lead to or result in

38 discipline, discharge, demotion, suspension or any other

39 adverse action.

40 (4) Protections of this section shall apply to any

41 person who mistakenly, but in good faith, alleges violations

42 of this article.

43 (5) There shall be a rebuttable presumption of unlawful

44 retaliatory personnel action under this section whenever an

45 employer takes adverse action against a person within 90 days

46 of when that person:

47 (i) files a complaint with the department or a court

48 alleging a violation of any provision of this article;

49 (ii) informs any person about an employer's alleged

50 violation of this article;

51 (iii) cooperates with the department or other

1 persons in the investigation or prosecution of any
2 alleged violation of this article;

3 (iv) opposes any policy, practice or chapter that is
4 unlawful under this article; or

5 (v) informs any person of his or her rights under
6 this article.

7 Section 124-D. Notice and posting.

8 (a) Notice.--Unless an employer's place of business is
9 closed due to a public health emergency, an employer shall give
10 employees written notice of their rights under this article, at
11 the commencement of employment or by the effective date of this
12 section, whichever is later, and annually thereafter. The notice
13 shall contain the following information:

14 (1) That employees are entitled to public health
15 emergency leave.

16 (2) The amount of public health emergency leave
17 guaranteed under this article.

18 (3) The terms of use of public health emergency leave
19 guaranteed under this article.

20 (4) That retaliatory personnel action against employees
21 who request or use public health emergency leave is
22 prohibited.

23 (5) That each employee has the right to file a complaint
24 or bring a civil action if public health emergency leave as
25 required by this article is denied by the employer or the
26 employee is subjected to retaliatory personnel action for
27 requesting or taking public health emergency leave.

28 (6) The contact information for the department where
29 questions about rights and responsibilities under this
30 article can be answered.

31 (b) Languages.--The notice required in subsection (a) shall
32 be in English, Spanish and any other language that is the first
33 language spoken by at least 20% of the employer's workforce, if
34 the notice has been translated and provided by the department.

35 (c) Amount available.--The amount of paid sick time
36 available to the employee, the amount of paid sick time taken by
37 the employee to date in the year and the amount of pay the
38 employee has received as paid sick time shall be recorded in or
39 on an attachment to the employee's regular paycheck.

40 (d) Display.--Unless an employer's place of business is
41 closed due to a public health emergency, an employer shall
42 display a poster that contains the information required in
43 subsection (a) in a conspicuous and accessible place in each
44 establishment where the employees are employed. In cases where
45 the employer does not maintain a physical workplace, or an
46 employee telecommutes or performs work through a web-based
47 platform, notification shall be sent via electronic
48 communication or a conspicuous posting on the web-based
49 platform. The poster displayed shall be in English, Spanish and
50 any language that is deemed appropriate by the department, if
51 the poster has been provided by the department.

1 (e) Templates.--The department shall create and make
2 available to employers model notices and posters that contain
3 the information required under subsection (a) for employers' use
4 in complying with subsections (a) and (d).

5 (f) Waiver.--If an employee's business is closed due to a
6 public health emergency, the notice and posting requirements
7 under subsections (a) and (d) shall be waived for the period in
8 which the place of business is closed.

9 (g) Violations.--An employer who willfully violates the
10 notice and posting requirements of this section shall be subject
11 to a civil fine in an amount not to exceed \$100 for each
12 separate offense.

13 SUBARTICLE D
14 ADMINISTRATION

15 Section 131-D. Employer records.

16 (a) Records.--For a period of three years, an employer shall
17 retain records documenting hours worked by employees, paid sick
18 time and public health emergency leave taken by employees and
19 allow the department access to these records, with appropriate
20 notice and at a mutually agreeable time, to monitor compliance
21 with the requirements of this article.

22 (b) Presumption.--If an issue arises as to an employee's
23 entitlement to public health emergency leave under this section,
24 if the employer does not maintain or retain adequate records
25 documenting hours worked by the employee, paid sick time and
26 public health emergency leave taken by the employee or does not
27 allow the department reasonable access to such records, it shall
28 be presumed that the employer has violated this article, absent
29 clear and convincing evidence otherwise.

30 Section 132-D. Confidentiality and nondisclosure.

31 Any health or safety information possessed by an employer
32 regarding an employee or employee's family member must:

33 (1) be maintained on a separate form and in a separate
34 file from other personnel information;

35 (2) be treated as confidential medical records; and

36 (3) not be disclosed except to the affected employee or
37 with the express permission of the affected employee.

38 Section 133-D. No effect on more generous policies or laws.

39 Nothing in this article shall be construed as:

40 (1) Discouraging or prohibiting an employer from the
41 adoption or retention of a paid sick time policy more
42 generous than the one required in this article.

43 (2) Diminishing the obligation of an employer to comply
44 with a contract, collective bargaining agreement, employment
45 benefit plan or other agreement providing more generous paid
46 sick time to an employee than required under this article.

47 (3) Diminishing the rights of public employees regarding
48 paid sick time or use of paid sick time as provided in the
49 laws of this Commonwealth relating to public employees.

50 (4) Superseding any provision of a local law that
51 provides greater rights to paid sick time than the rights

1 established under this article.

2 Section 134-D. Other legal requirements.

3 This article provides minimum requirements pertaining to paid
4 sick time and may not be construed to preempt, limit or
5 otherwise affect the applicability of any other law, regulation,
6 requirement, policy or standard that provides for a greater
7 amount, accrual or use by employees of paid sick time or that
8 extends other protections to employees.

9 Section 135-D. Public education and outreach.

10 The department shall develop and implement a multilingual
11 outreach program to inform employees, employers, parents, elder
12 care providers and persons who are under the care of a health
13 care provider about the availability of public health emergency
14 leave under this article.

15 ARTICLE I-E

16 EMPLOYEE PROTECTIONS

17 Section 101-E. Definitions.

18 The following words and phrases when used in this article
19 shall have the meanings given to them in this section unless the
20 context clearly indicates otherwise:

21 "COVID-19." The novel coronavirus, otherwise known as COVID-
22 19.

23 "Employee." An individual who is not able to work remotely
24 during employment for an employer.

25 "Employer." Any business industry or trade operating with a
26 physical location in this Commonwealth, regardless of whether
27 that physical location is open to the public.

28 "Infectious disease." A disease which is caused by a
29 microorganism, such as a bacterium, virus, or protozoan, which
30 is not normally found in the human body, and which is capable of
31 causing infection. Some, but not all, infectious diseases are
32 contagious, meaning they can spread from person to person,
33 including COVID-19 or the coronavirus. Other infectious diseases
34 can spread from animals or insects to humans, but not from
35 person to person.

36 "Public health emergency." An emergency declaration by the
37 Governor of an occurrence or imminent threat of a disease or
38 condition of critical public health importance with the
39 following characteristics:

40 (1) Is believed to be caused by any of the following:

41 (i) the emergence and spread of a novel or
42 previously controlled or eradicated infectious disease;
43 or

44 (ii) an infectious disease epidemic in this
45 Commonwealth or a pandemic.

46 (2) Poses a high probability of any of the following in
47 the affected population:

48 (i) Death.

49 (ii) Serious or long-term disabilities.

50 (iii) Widespread exposure to an infectious disease,
51 which poses a significant risk of substantial present or

1 future harm to the public health and safety.

2 Section 102-E. Employee personal protective equipment.

3 Notwithstanding any other provision of law, during a public
4 health emergency, an employer shall provide employees with
5 appropriate personal protective equipment, including the
6 provision of face masks to and use by employees, that complies
7 with guidance issued by the Centers for Disease Control and
8 Prevention for businesses to plan and respond to COVID-19 or any
9 other infectious disease, and the guidance on business practices
10 issued by the Department of Health to address COVID-19 or any
11 other infectious disease.

12 Section 103-E. Protection from retaliation.

13 (a) General rule.--It shall be unlawful for an employer to
14 discharge, threaten or otherwise retaliate against an employee
15 regarding compensation or other terms or conditions of
16 employment because the employee:

17 (1) makes a complaint regarding noncompliance with
18 section 102-E to the employer or a governmental entity; or

19 (2) participates in an investigation regarding
20 noncompliance with section 102-E.

21 (b) Action.--An employee who suffers retaliation or
22 discrimination in violation of this article may bring an action
23 in a court of common pleas in accordance with established civil
24 procedures of this Commonwealth. The action must be brought
25 within three years from the date the employee knew of the
26 retaliation or discrimination.

27 (c) Relief.--If the employee prevails in an action commenced
28 under this article, the employee shall be entitled to the
29 following relief:

30 (1) Reinstatement of the employee, if applicable.

31 (2) Restitution equal to three times the amount of the
32 employee's wages and fringe benefits calculated from the date
33 of the retaliation or discrimination.

34 (3) Reasonable attorney fees and the cost of the action.

35 (4) Any other legal and equitable relief as the court
36 deems appropriate.

37 Section 104-E. Penalties.

38 An employer operating in this Commonwealth that fails to
39 comply with the requirements of section 102-E shall be:

40 (1) Subject to a civil penalty of \$1,000 for each
41 finding of noncompliance.

42 (2) Immediately closed and may not be permitted to
43 reopen until the employer is in compliance.