THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2495 Session of 2020

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REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, MAY 13, 2020

AN ACT

1 Providing for COVID-19 large employer emergency paid sick leave.
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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

CHAPTER 1

PRELIMINARY PROVISIONS

Section 101. Short title of act.

This act shall be known and may be cited as the COVID-19 Large Employer Emergency Paid Sick Leave Act.

Section 102. Purposes of act.

The purposes of this act are to:

(1) Protect employees in this Commonwealth who work for employers with 500 or more employees during the COVID-19 public health emergency by requiring access to the same emergency paid sick leave that was available to other workers through the Federal Families First Coronavirus Response Act (Public Law 116-127).

(2) Prohibit an employer from requiring an employee of the employer to use other paid leave or regular sick days before using emergency paid sick leave.

(3) Prohibit an employer from requiring an employee of the employer to find a replacement worker to cover the employee's shift or any scheduled work hours while the employee is on leave.

(4) Prohibit an employer from retaliating against an employee of the employer for:

   (i) taking emergency paid sick leave; or
   (ii) filing a complaint against the employer or
Section 103. Definitions.

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

"COVID-19." The novel coronavirus as identified in the proclamation of disaster emergency issued by the Governor on March 6, 2020, published at 50 Pa.B. 1644 (March 21, 2020), and any renewal of the state of disaster emergency.

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

"Employee." An individual who is employed by an employer.

"Employer." Includes an individual, partnership, association, corporation, business trust or other person or group of persons acting, directly or indirectly, in the interest of an employer in relation to an employee that employs 500 or more employees in the United States, one or more of which are residents of this Commonwealth.

"Secretary." The Secretary of Labor and Industry of the Commonwealth.

CHAPTER 3

EMERGENCY PAID SICK LEAVE

Section 301. Mandated employee benefit.

An employer shall provide to each qualified employee of the employer in this Commonwealth emergency paid sick leave to the extent that the employee is unable to work or telework due to a need for leave because of any of the following:

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

(2) The employee has been advised by a health care
provider to self-quarantine due to concerns related to COVID-19.

(3) The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis from a health care provider via test results for COVID-19.

(4) The employee is experiencing any other substantially similar condition related to COVID-19 specified by the Secretary of Health.

Section 302. Duration and amount of emergency paid sick leave.

(a) Amount of hours.--

(1) An employee shall be entitled to emergency paid sick leave from the employer of the employee for the following amount of hours:

(i) If the employee works full time for the employer, 80 hours.

(ii) If the employee works part time for the employer, the number of hours that the employee works, on average, during a two-week period during the current calendar year.

(2) Emergency paid sick leave under this subsection may not carry over from the current year to the next.

(b) Rate.--An employee of an employer shall receive emergency paid sick leave at the employee's regular rate of pay on the same payment schedule, in the same manner of distribution and with the same benefits.

(c) Use of emergency paid sick leave.--

(1) Emergency paid sick leave under this act shall be available for immediate use by an employee for the purpose intended under this act, regardless of the length of time that the employee has been employed by the employer.
An employer may not require an employee to use other paid leave provided by the employer to the employee before the employee uses the emergency paid sick leave under this act.

Section 303. Termination of emergency paid sick leave.

(a) Termination.--Emergency paid sick leave provided to an employee under this act shall cease beginning with the employee's next scheduled work shift immediately following the termination of the need for emergency paid sick leave under this act.

(b) Unused leave.--An employer shall not be required to pay unused emergency paid sick leave to an employee of the employer if the employee's employment with the employer ends through termination, resignation, retirement or other separation from employment.

Section 304. Prohibited actions.

An employer may not:

(1) Require an employee of the employer:

   (i) To find a replacement worker to cover the employee's shift or any scheduled work hours during the emergency paid sick leave.

   (ii) To take paid vacation leave, paid sick leave, paid personal leave or other paid leave before taking the emergency paid sick leave.

(2) Deny a right guaranteed under this act.

(3) Engage in any of the following actions, or threaten to engage in any of the following actions, against an employee of the employer who is exercising a right guaranteed under this act:

   (i) Discharge, suspend, demote or reduce the hours
of the employee.

(ii) Report the employee's suspected citizenship or immigration status, or the suspected citizenship or immigration status of a family member of the employee to a Federal, State or local department.

(iii) Take any other adverse action against the employee, including a sanction against the employee if the employee is the recipient of public benefits.

(4) Interfere with or punish in any manner the employee who participates in or assists an investigation, proceeding or hearing under this act.

Section 305. Notice.

(a) Workplace posting.--Each employer shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees are customarily posted, a notice, to be prepared or approved by the secretary, of the requirements described in this act.

(b) Model notice.--Not later than seven days after the effective date of this subsection, the secretary shall make available a model notice, which shall describe the requirements of this act and shall be posted on the publicly accessible Internet website of the department.

(c) Initial notice by employee.--Before an employee takes emergency paid sick leave, the employee shall provide the employee's employer with as much notice as practicable.

(d) Ongoing notice.--An employer may require an employee of the employer to continue to notify the employer of the ongoing use of emergency paid sick leave after the initial notice under subsection (c).
ADMINISTRATION AND ENFORCEMENT

Section 501. Duties of department.

The department shall:

(1) Have authority to enforce this act.

(2) Be authorized to coordinate implementation and enforcement of this act.

(3) Promulgate appropriate guidelines or regulations for this act.

(4) Post the regulations and information about the rights and duties of employees and employers under this act on the department's publicly accessible Internet website.

Section 502. Enforcement and penalties.


(b) Penalties.--This act shall be subject to the penalties described in sections 16 and 17 of the Fair Labor Standards Act of 1938 (29 U.S.C. §§ 216 and 217) with respect to the violation.

Section 503. Alleged violations of act.

(a) Rights.--A person may:

(1) File a complaint with the department or courts or inform any other person about an employer's alleged violation of this act.

(2) Participate in an investigation, hearing or proceeding or cooperate with or assist the department in the department's investigations of alleged violations of this act.

(b) Good faith.--A person shall not be liable for any good
faith allegation of a violation of this act.

CHAPTER 7

MISCELLANEOUS PROVISIONS

Section 701. Construction.

Nothing in this act shall be construed in any way to diminish the rights or benefits that an employee is entitled to under any of the following:

(1) Federal, State or local law.
(2) A collective bargaining agreement.
(3) An existing policy of the employee's employer.

Section 702. Expiration.

This act shall expire December 31, 2020.

Section 703. Effective date.

This act shall take effect in 15 days.