



## **Families First Coronavirus Response Act - HR 6201 bill**

### **What Is This?**

President Trump signed a bill into law that gives workers affected by the new coronavirus additional resources and guaranteed paid leave.

Many US companies do not offer paid sick leave which can put a financial burden on employees when they are sick. These employees felt forced to choose between protecting their health and going to work to keep their jobs and earn income to pay their bills. In an effort to help reduce the spread of Covid-19, President Trump signed this bill into law that gives workers affected by the new coronavirus additional resources including paid sick time and guaranteed leave for qualifying reasons. The provisions will go into effect 15 days after the date of enactment and expire on December 31, 2020.

### **Does This Apply to My Company?**

If you're a small or midsize business with fewer than 500 employees, your business is covered by the bill. If you have fewer than 50 employees and can show that it would jeopardize business viability, you are able to opt-out of the provisions. Also, if your company already gives two or more weeks of paid sick leave, the bill may not change much for you. It is important to note that under the legislation, employers will initially pay for the leave time but are fully reimbursed by the federal government within three months through refundable tax credits that count against employers' payroll tax. Employers will be required to post a notice informing employees of their rights to leave.

The Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act are explained in more detail below.

### **EMERGENCY PAID SICK LEAVE ACT**

In general, an employer shall provide to each employee employed by the employer paid sick time to the extent that the employee is unable to work (or telework) due to a need for leave because of a qualifying reason outlined in detail below.

- Full Time Employees: Employers required to provide 2 weeks (80 hours) paid sick leave for specific circumstances related to COVID-19 (e.g., self-isolating, doctors' visits, etc.) at the regular rate of pay.



- Part Time Employees: Employers required to provide number of hours of paid sick time equal to the average number of hours worked over a 2-week period, at the regular rate of pay.

### **Qualifying Reasons:**

- 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.
- (4) The employee is caring for an individual who is subject to an order as described in subparagraph (1) or has been advised as described in paragraph (2).
- (5) The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions.
- (6) The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

### **Important Information for Employers:**

An employer may not require an employee to use other paid leave provided by the employer to the employee before the employee uses the paid sick time from the Emergency Paid Sick Leave Act.

The bill expressly states that it does not preempt existing state or local paid sick leave entitlements.

It is unlawful for any employer to discharge, discipline, or in any other manner discriminate against any employee who:

- (1) takes leave in accordance with this Act; and
- (2) has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act (including a proceeding that seeks enforcement of this Act), or has testified or is about to testify in any such proceeding.



In no event shall such paid sick time exceed—

- \$511 per day and \$5,110 in the aggregate for an employee when sick leave is due to reasons 1, 2, or 3 described above
- \$200 per day and \$2,000 in the aggregate for an employee when sick leave is due to reasons 4, 5, or 6 described above

The bill entitles employees of covered employers to **paid sick leave** regardless of how long the employee has worked for the employer, which is different from the time worked qualifications for Public Health Emergency Leave.

### **EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT**

The FMLA has also been expanded to include a ‘Public Health Emergency Leave’ which is now in effect and ends on December 31, 2020.

The bill provides 12 weeks job-protected FMLA leave, of which the first 14 days may be unpaid. Employees may use accrued personal or sick leave during the first 14 days, but employers may not require employees to do so. This leave benefit covers employees who have been working for at least 30 calendar days.

Among other uses, employees may use the leave to respond to quarantine requirements or recommendations, to care for family members who are responding to quarantine requirements or recommendations, and to care for a child whose school has been closed as a result of the COVID-19 pandemic.

After the first 14 days, employers must compensate employees in an amount that is not less than two-thirds of the employee’s regular rate of pay. These pay requirements apply only to the six COVID-19-related leave reasons listed above.

#### **Calculating Employee’s Paid Leave:**

An employee’s paid leave shall be calculated based on an amount that is not less than two-thirds of an employee’s regular rate of pay and the number of hours the employee would otherwise be normally scheduled to work (or the number of hours calculated under subparagraph (C)).

In the case of an employee whose schedule varies from week to week to such an extent that an employer is unable to determine with certainty the number of hours the employee would have worked if such employee had not taken leave, the employer shall use the following in place of such number:



1. a number equal to the average number of hours that the employee was scheduled per day over the 6-month period ending on the date on which the employee takes such leave, including hours for which the employee took leave of any type.
2. If the employee did not work over such period, the reasonable expectation of the employee at the time of hiring of the average number of hours per day that the employee would normally be scheduled to work.

### **Important Information for Employers:**

In no event shall the Public Health Emergency Paid Leave exceed \$200 per day and \$10,000 in the aggregate for an employee.

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

## **EMPLOYER TAX CREDITS**

H.R. 6201 provides for employer tax credits to offset the costs associated with the paid public health emergency leave and sick leave required for employees under Divisions C and E of the bill.

### **Payroll Tax Credit**

The bill provides a refundable tax credit worth 100 percent of qualified public health emergency leave wages (as provided by Division C) and qualified paid sick leave wages (as provided by Division E) paid by an employer for each calendar quarter through the end of 2020.

### **Credit for Health Plan Expenses**

Under the bill, the public health emergency leave and paid sick leave credits would **be increased** to include amounts employers pay for the employee's health plan coverage while they are on leave.

### **How Can I Prepare?**

- Prepare for increased absenteeism, especially among parents with children at home.



- Mobilize your work to allow your employees to work from home, if at all possible.
- As an employer, it's important to recognize that you cannot discourage or prevent eligible employees from claiming paid sick leave. If this occurs, it could be considered discriminatory or an obstruction of their legal rights.

**Still have questions or would like assistance navigating through these new HR requirements, feel free to reach out to us for a quote. We can work with you to design a pay-by-the-hour plan and more!**

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### **Sources:**

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