

HOUSE BILL 1

K3, P4

(7lr0736)

ENROLLED BILL

— Economic Matters/Finance —

Introduced by Delegates Clippinger and Davis, Davis, Anderson, Angel, Atterbeary, Barkley, B. Barnes, D. Barnes, Barron, Barve, Branch, Brooks, Carr, Chang, Conaway, Cullison, Dumais, Ebersole, Fennell, Fraser-Hidalgo, Frick, Frush, Gaines, Gilchrist, Glenn, Gutierrez, Hayes, Haynes, Healey, Hettleman, Hill, Hixson, Holmes, C. Howard, Jackson, Jalisi, Jones, Kaiser, Kelly, Knotts, Korman, Krimm, Lafferty, Lam, J. Lewis, R. Lewis, Lierman, Luedtke, McCray, McIntosh, A. Miller, Moon, Morales, Morhaim, Mosby, Patterson, Pena-Melnyk, Pendergrass, Platt, Proctor, Queen, Reznik, Robinson, Rosenberg, Sample-Hughes, Sanchez, Sophocleus, Stein, Sydnor, Tarlau, Turner, Valderrama, Vallario, Waldstreicher, A. Washington, M. Washington, Wilkins, K. Young, and P. Young

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Labor and Employment – Maryland Healthy Working Families Act**

3 FOR the purpose of requiring certain employers to provide employees with certain earned
4 sick and safe leave; providing that, except under certain circumstances, certain
5 employees of a unit of State or local government are subject to certain provisions of

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



the unit's laws, regulations, policies, and procedures under certain circumstances; prohibiting an employer from being required to pay a tipped employee more than a certain wage for earned sick and safe leave; providing for the method of determining whether an employer is required to provide paid or unpaid earned sick and safe leave; providing for the manner in which earned sick and safe leave is accrued by the employee and treated by the employer; authorizing an employer, under certain circumstances, to deduct the amount paid for earned sick and safe leave from the wages paid to an employee on the termination of employment under a certain provision of law; prohibiting an employer from being required to pay out on the termination of employment certain earned sick and safe leave; requiring an employer to allow an employee to use earned sick and safe leave for certain purposes; authorizing an employer to require an employee to provide certain notice under certain circumstances; requiring an employee, under certain circumstances, to provide certain notice to the employer; authorizing an employer to deny a request for leave under certain circumstances; prohibiting an employer from requiring that a certain employee search for or find an individual to work in the employee's stead during a certain period of time; authorizing an employee to work additional hours or trade shifts with another employee instead of taking earned sick and safe leave, under certain circumstances; providing that an employee is not required to accept a certain offer; providing that an employer is not required to consent to a certain request under certain circumstances; prohibiting an employer, under certain circumstances, from being required to pay more than a certain rate ~~or allowing an employee to work certain hours or shifts~~; prohibiting an employer, under certain circumstances, from deducting a certain absence from a certain employee's earned sick and safe leave; requiring an employer to offer a certain employee employed in the restaurant industry the employee's base rate of pay for the employee's absence, except under certain circumstances; authorizing an employer, in lieu of offering to pay a certain employee the employee's base rate of pay, to offer an additional shift of the same number of hours within a certain time frame; authorizing an employer to deduct accrued earned sick and safe leave for leave taken under certain circumstances; authorizing an employee to take earned sick and safe leave in certain increments of time, subject to a certain limitation; authorizing an employer, under certain circumstances, to require an employee to provide certain verification; requiring an employer to notify the employees that the employees are entitled to certain earned sick and safe leave; specifying the information that must be included in the notice; requiring the Commissioner of Labor and Industry to create and make available a certain poster and notice; requiring the Commissioner to develop a certain model sick and safe leave policy for use by certain employers for certain purposes; requiring the Commissioner to provide technical assistance to certain employers under certain circumstances; requiring the Department of Labor, Licensing, and Regulation to post a certain notice and model on a certain Web site in a certain format; requiring an employer to keep certain records for a certain time period; authorizing the Commissioner to inspect certain records; establishing a rebuttable presumption that an employer has violated certain provisions of this Act under certain circumstances; ~~prohibiting an employer from being assessed a certain civil penalty under certain circumstances; providing for the liability of certain payroll service providers~~ authorizing the Commissioner to waive a certain civil penalty under certain circumstances; requiring and authorizing

the Commissioner to take certain acts when the Commissioner receives a certain written complaint; specifying the contents that are required to be included and may be included in a certain order issued by the Commissioner; subjecting certain acts to certain hearing and notice requirements; requiring an employer to comply with a certain order within a certain time period; authorizing an employee to bring a civil action in a certain court against an employer for a violation of certain provisions of this Act within a certain time period; ~~requiring~~ authorizing a court to award certain damages, fees, and injunctive relief under certain circumstances; establishing certain prohibited acts; providing for certain criminal penalties; providing that certain protections apply to certain employees; authorizing the Commissioner to adopt regulations to carry out certain provisions of this Act; authorizing the Commissioner to conduct an investigation, under certain circumstances, to determine whether certain provisions of this Act have been violated; requiring the Commissioner, except under certain circumstances, to keep certain information confidential; providing for the construction of certain provisions of this Act; providing that this Act preempts the authority of a local jurisdiction to enact a law on or after a certain date that provides for certain sick and safe leave provided by certain employers; authorizing certain jurisdictions to amend certain sick and safe leave laws enacted before a certain date; providing for the application of this Act; providing for a delayed effective date; defining certain terms; and generally relating to earned sick and safe leave.

BY repealing and reenacting, with amendments,

Article – Labor and Employment

Section 2–106(b)

Annotated Code of Maryland

(2016 Replacement Volume)

BY adding to

Article – Labor and Employment

Section 3–103(k); and 3–1301 through 3–1311 to be under the new subtitle “Subtitle

13. Healthy Working Families Act”

Annotated Code of Maryland

(2016 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

That the Laws of Maryland read as follows:

Article – Labor and Employment

2–106.

(b) Except as provided in subsection (c) of this section, and in addition to authority to adopt regulations that is set forth elsewhere, the Commissioner may adopt regulations that are necessary to carry out:

(1) Title 3, Subtitle 3 of this article;

(2) Title 3, Subtitle 5 of this article;

(3) TITLE 3, SUBTITLE 13 OF THIS ARTICLE;

[(3)] (4) Title 4, Subtitle 2, Parts I through III of this article;

[(4)] (5) Title 5 of this article;

[(5)] (6) Title 6 of this article; and

[(6)] (7) Title 7 of this article.

3–103.

(K) (1) THE COMMISSIONER MAY CONDUCT AN INVESTIGATION TO DETERMINE WHETHER SUBTITLE 13 OF THIS TITLE HAS BEEN VIOLATED ON RECEIPT OF A WRITTEN COMPLAINT BY AN EMPLOYEE.

(2) TO THE EXTENT PRACTICABLE, THE COMMISSIONER SHALL KEEP CONFIDENTIAL THE IDENTITY OF AN EMPLOYEE WHO HAS FILED A WRITTEN COMPLAINT ALLEGING A VIOLATION OF SUBTITLE 13 OF THIS TITLE UNLESS THE EMPLOYEE WAIVES CONFIDENTIALITY.

SUBTITLE 13. HEALTHY WORKING FAMILIES ACT.

3–1301.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “ABUSE” HAS THE MEANING STATED IN § 4–501 OF THE FAMILY LAW ARTICLE.

(C) “DOMESTIC VIOLENCE” MEANS ABUSE AGAINST AN INDIVIDUAL ELIGIBLE FOR RELIEF.

(D) “EARNED SICK AND SAFE LEAVE” MEANS ~~PAID~~ LEAVE AWAY FROM WORK THAT IS PROVIDED BY AN EMPLOYER UNDER § 3–1304 OF THIS SUBTITLE.

(E) “EMPLOYEE” DOES NOT INCLUDE AN INDIVIDUAL WHO:

(1) PERFORMS WORK UNDER A CONTRACT OF HIRE THAT IS DETERMINED NOT TO BE COVERED EMPLOYMENT UNDER § 8–205 OF THIS ARTICLE;

(2) IS NOT A COVERED EMPLOYEE UNDER § 9-222 OF THIS ARTICLE;

(3) IS UNDER THE AGE OF 18 YEARS BEFORE THE BEGINNING OF THE YEAR; ~~OR~~

(4) IS EMPLOYED IN THE AGRICULTURAL SECTOR ON AN AGRICULTURAL OPERATION UNDER § 5-403(A) OF THE COURTS ARTICLE;

(5) IS EMPLOYED BY A TEMPORARY SERVICES AGENCY TO PROVIDE TEMPORARY STAFFING SERVICES TO ANOTHER PERSON IF THE TEMPORARY SERVICES AGENCY DOES NOT HAVE DAY-TO-DAY CONTROL OVER THE WORK ASSIGNMENTS AND SUPERVISION OF THE INDIVIDUAL WHILE THE INDIVIDUAL IS PROVIDING THE TEMPORARY STAFFING SERVICES; OR

(6) IS DIRECTLY EMPLOYED BY AN EMPLOYMENT AGENCY TO PROVIDE PART-TIME OR TEMPORARY SERVICES TO ANOTHER PERSON.

(F) “EMPLOYER” INCLUDES:

(1) A UNIT OF STATE OR LOCAL GOVERNMENT; AND

(2) A PERSON THAT ACTS DIRECTLY OR INDIRECTLY IN THE INTEREST OF ANOTHER EMPLOYER WITH AN EMPLOYEE.

(G) “FAMILY MEMBER” MEANS:

(1) A BIOLOGICAL CHILD, AN ADOPTED CHILD, A FOSTER CHILD, OR A STEPCHILD OF THE EMPLOYEE;

(2) A CHILD FOR WHOM THE EMPLOYEE HAS LEGAL OR PHYSICAL CUSTODY OR GUARDIANSHIP;

(3) A CHILD FOR WHOM THE EMPLOYEE STANDS IN LOCO PARENTIS, REGARDLESS OF THE CHILD’S AGE;

(4) A BIOLOGICAL PARENT, AN ADOPTIVE PARENT, A FOSTER PARENT, OR A STEPPARENT OF THE EMPLOYEE OR OF THE EMPLOYEE’S SPOUSE;

(5) THE LEGAL GUARDIAN OF THE EMPLOYEE;

(6) AN INDIVIDUAL WHO ACTED AS A PARENT OR STOOD IN LOCO PARENTIS TO THE EMPLOYEE OR THE EMPLOYEE’S SPOUSE WHEN THE EMPLOYEE OR THE EMPLOYEE’S SPOUSE WAS A MINOR;

(7) THE SPOUSE OF THE EMPLOYEE;

(8) A BIOLOGICAL GRANDPARENT, AN ADOPTED GRANDPARENT, A FOSTER GRANDPARENT, OR A STEPGRANDPARENT OF THE EMPLOYEE;

(9) A BIOLOGICAL GRANDCHILD, AN ADOPTED GRANDCHILD, A FOSTER GRANDCHILD, OR A STEPGRANDCHILD OF THE EMPLOYEE; OR

(10) A BIOLOGICAL SIBLING, AN ADOPTED SIBLING, A FOSTER SIBLING, OR A STEPSIBLING OF THE EMPLOYEE.

(H) "PERSON ELIGIBLE FOR RELIEF" HAS THE MEANING STATED IN § 4-501 OF THE FAMILY LAW ARTICLE.

(I) "RESTAURANT" MEANS AN ESTABLISHMENT THAT:

(1) ACCOMMODATES THE PUBLIC;

(2) IS EQUIPPED WITH A DINING ROOM WITH FACILITIES FOR PREPARING AND SERVING REGULAR MEALS; AND

(3) HAS AVERAGE DAILY RECEIPTS FROM THE SALE OF FOOD THAT EXCEED THE AVERAGE DAILY RECEIPTS FROM THE SALE OF ALCOHOLIC BEVERAGES.

(J) "SEXUAL ASSAULT" MEANS:

(1) RAPE, SEXUAL OFFENSE, OR ANY OTHER ACT THAT IS A SEXUAL CRIME UNDER TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE;

(2) CHILD SEXUAL ABUSE UNDER § 3-602 OF THE CRIMINAL LAW ARTICLE; OR

(3) SEXUAL ABUSE OF A VULNERABLE ADULT UNDER § 3-604 OF THE CRIMINAL LAW ARTICLE.

~~(K)~~ (K) "STALKING" HAS THE MEANING STATED IN § 3-802 OF THE CRIMINAL LAW ARTICLE.

~~(L)~~ (L) UNLESS THE CONTEXT REQUIRES OTHERWISE, "YEAR" MEANS A REGULAR AND CONSECUTIVE 12-MONTH PERIOD AS DETERMINED BY THE EMPLOYER.

3-1302.

(A) IN THIS SECTION, “EXISTING PAID LEAVE” INCLUDES:

(1) VACATION DAYS;

(2) SICK DAYS;

(3) SHORT-TERM DISABILITY BENEFITS;

(4) FLOATING HOLIDAYS;

(5) PARENTAL LEAVE; AND

(6) OTHER PAID TIME OFF THAT MAY BE USED UNDER THE TERMS AND CONDITIONS AS PAID SICK AND SAFE LEAVE.

(B) THIS SUBTITLE MAY NOT BE CONSTRUED TO:

(1) REQUIRE AN EMPLOYER TO COMPENSATE AN EMPLOYEE FOR UNUSED EARNED SICK AND SAFE LEAVE WHEN THE EMPLOYEE LEAVES THE EMPLOYER’S EMPLOYMENT;

(2) REQUIRE AN EMPLOYER TO MODIFY AN EXISTING PAID LEAVE POLICY IF:

(I) THE POLICY PERMITS AN EMPLOYEE TO ACCRUE AND USE LEAVE UNDER TERMS AND CONDITIONS THAT ARE AT LEAST EQUIVALENT TO THE EARNED SICK AND SAFE LEAVE PROVIDED FOR UNDER THIS SUBTITLE; OR

(II) THE PAID LEAVE POLICY DOES NOT REDUCE EMPLOYEE COMPENSATION FOR AN ABSENCE DUE TO SICK OR SAFE LEAVE;

(3) EXCEPT AS PROVIDED IN SUBSECTION ~~(C)~~ (D) OF THIS SECTION, PREEMPT, LIMIT, OR OTHERWISE AFFECT ANY OTHER LAW THAT PROVIDES FOR SICK AND SAFE LEAVE BENEFITS THAT ARE MORE GENEROUS THAN REQUIRED UNDER THIS SUBTITLE;

(4) PREEMPT, LIMIT, OR OTHERWISE AFFECT ANY WORKERS’ COMPENSATION BENEFITS THAT ARE AVAILABLE UNDER TITLE 9 OF THIS ARTICLE; OR

(5) PROHIBIT AN EMPLOYER FROM ADOPTING AND ENFORCING A POLICY THAT LIMITS AN EMPLOYEE TO USING EARNED SICK AND SAFE LEAVE ONLY FOR THE REASONS LISTED IN § 3-1305(A) OF THIS SUBTITLE PROHIBITS THE

IMPROPER USE OF EARNED SICK AND SAFE LEAVE, INCLUDING PROHIBITING A
PATTERN OF ABUSE OF EARNED SICK AND SAFE LEAVE.

~~(B)~~ (C) FOR THE PURPOSES OF SUBSECTION ~~(A)(2)~~ (B)(2) OF THIS
SECTION, THE TERMS AND CONDITIONS OF A PAID LEAVE POLICY SHALL BE
PRESUMED TO BE EQUIVALENT IF THE TERMS AND CONDITIONS ALLOW AN
EMPLOYEE TO:

(1) ACCESS AND ACCRUE PAID LEAVE AT THE SAME RATE OR AT A
GREATER RATE THAN PROVIDED FOR IN § 3-1304 OF THIS SUBTITLE; AND

(2) USE THE PAID LEAVE FOR THE PURPOSES LISTED IN § 3-1305 OF
THIS SUBTITLE.

~~(C)~~ (D) (1) THIS EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
SUBSECTION, THIS SUBTITLE PREEMPTS THE AUTHORITY OF A LOCAL
JURISDICTION TO ENACT A LAW ON OR AFTER JANUARY 1, 2017, THAT REGULATES
SICK AND SAFE LEAVE PROVIDED BY AN EMPLOYER OTHER THAN THE LOCAL
JURISDICTION.

(2) THIS SUBSECTION DOES NOT PREEMPT A LOCAL JURISDICTION
FROM AMENDING A LAW THAT WAS ENACTED BEFORE JANUARY 1, 2017, AND
REGULATES SICK AND SAFE LEAVE PROVIDED BY AN EMPLOYER.

3-1303.

(A) THIS SUBTITLE DOES NOT APPLY TO AN EMPLOYEE WHO:

(1) REGULARLY WORKS LESS THAN § 12 HOURS A WEEK FOR AN
EMPLOYER; ~~OR~~

(2) (I) IS EMPLOYED IN THE CONSTRUCTION INDUSTRY; AND

(II) IS COVERED BY A BONA FIDE COLLECTIVE BARGAINING
AGREEMENT IN WHICH THE REQUIREMENTS OF THIS SUBTITLE ARE EXPRESSLY
WAIVED IN CLEAR AND UNAMBIGUOUS TERMS; OR

(3) (I) IS CALLED TO WORK BY THE EMPLOYER ON AN AS-NEEDED
BASIS IN A HEALTH OR HUMAN SERVICES INDUSTRY;

(II) CAN REJECT OR ACCEPT THE SHIFT OFFERED BY THE
EMPLOYER;

1 (III) IS NOT GUARANTEED TO BE CALLED ON TO WORK BY THE
2 EMPLOYER; AND

3 (IV) IS NOT EMPLOYED BY A TEMPORARY STAFFING AGENCY.

4 (B) FOR THE PURPOSE OF SUBSECTION (A)(2)(I) OF THIS SECTION, AN
5 EMPLOYEE WHO IS EMPLOYED IN THE CONSTRUCTION INDUSTRY DOES NOT
6 INCLUDE AN EMPLOYEE EMPLOYED AS:

7 (1) A JANITOR;

8 (2) A BUILDING CLEANER;

9 (3) A BUILDING SECURITY OFFICER;

10 (4) A CONCIERGE;

11 (5) A DOORPERSON;

12 (6) A HANDYPERSON; OR

13 (7) A BUILDING SUPERINTENDENT.

14 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF
15 A UNIT OF STATE OR LOCAL GOVERNMENT'S SICK LEAVE ACCRUAL AND USE
16 REQUIREMENTS MEET OR EXCEED THE SICK AND SAFE LEAVE PROVIDED FOR UNDER
17 THIS SUBTITLE, EMPLOYEES OF THE UNIT OF STATE OR LOCAL GOVERNMENT WHO
18 ARE PART OF THE UNIT'S PERSONNEL SYSTEM ARE SUBJECT TO THE UNIT'S LAWS,
19 REGULATIONS, POLICIES, AND PROCEDURES PROVIDING FOR:

20 (I) ACCRUAL AND USE OF SICK LEAVE;

21 (II) GRIEVANCES; AND

22 (III) DISCIPLINARY ACTIONS.

23 (2) EMPLOYEES OF A UNIT OF STATE GOVERNMENT THAT ARE
24 ENTITLED TO SICK AND SAFE LEAVE UNDER THIS SUBTITLE AND WHO ARE NOT
25 COVERED BY THE UNIT'S SICK LEAVE AND ACCRUAL AND USE REQUIREMENTS ARE
26 SUBJECT TO § 3-1308 OF THIS SUBTITLE.

27 3-1304.

(A) (1) ~~(I)~~ ~~AN~~ SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH,
AN EMPLOYER THAT EMPLOYS 15 OR MORE EMPLOYEES SHALL PROVIDE AN
EMPLOYEE WITH EARNED SICK AND SAFE LEAVE THAT IS PAID AT THE SAME WAGE
RATE AS THE EMPLOYEE NORMALLY EARNS.

~~(2)~~ (II) AN EMPLOYER THAT EMPLOYS 14 OR FEWER EMPLOYEES
SHALL AT LEAST PROVIDE AN EMPLOYEE WITH UNPAID EARNED SICK AND SAFE
LEAVE.

(III) AN EMPLOYER MAY NOT BE REQUIRED TO PAY A TIPPED
EMPLOYEE MORE THAN THE APPLICABLE MINIMUM WAGE FOR EARNED SICK AND
SAFE LEAVE.

~~(3)~~ (2) (I) FOR THE PURPOSE OF DETERMINING WHETHER AN
EMPLOYER IS REQUIRED TO PROVIDE PAID OR UNPAID EARNED SICK AND SAFE
LEAVE UNDER THIS SUBSECTION, THE NUMBER OF EMPLOYEES OF AN EMPLOYER
SHALL BE DETERMINED BY CALCULATING THE AVERAGE MONTHLY NUMBER OF
EMPLOYEES EMPLOYED BY THE EMPLOYER DURING THE IMMEDIATELY PRECEDING
YEAR.

(II) EACH EMPLOYEE OF AN EMPLOYER SHALL BE INCLUDED IN
THE CALCULATION MADE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH WITHOUT
REGARD TO WHETHER THE EMPLOYEE IS A FULL-TIME, PART-TIME, TEMPORARY,
OR SEASONAL EMPLOYEE OR WOULD BE ELIGIBLE FOR EARNED SICK AND SAFE
LEAVE BENEFITS UNDER THIS SUBSECTION.

(B) THE EARNED SICK AND SAFE LEAVE PROVIDED UNDER SUBSECTION (A)
OF THIS SECTION SHALL ACCRUE AT A RATE OF AT LEAST 1 HOUR FOR EVERY 30
HOURS AN EMPLOYEE WORKS.

(C) AN EMPLOYER MAY NOT BE REQUIRED TO ALLOW AN EMPLOYEE TO:

(1) EARN MORE THAN ~~56~~ 40 HOURS OF EARNED SICK AND SAFE LEAVE
IN A YEAR;

(2) USE MORE THAN ~~80~~ 64 HOURS OF EARNED SICK AND SAFE LEAVE
IN A YEAR;

(3) ACCRUE A TOTAL OF MORE THAN ~~80~~ 64 HOURS AT ANY TIME; ~~OR~~

(4) USE EARNED SICK AND SAFE LEAVE DURING THE FIRST ~~90~~ 106
CALENDAR DAYS THE EMPLOYEE WORKS FOR THE EMPLOYER ~~OR THE FIRST 480~~
~~HOURS WORKED, WHICHEVER IS SHORTER; OR~~

(5) ACCRUE EARNED SICK AND SAFE LEAVE DURING A:

(I) 2-WEEK PAY PERIOD IN WHICH THE EMPLOYEE WORKED FEWER THAN ~~16~~ 24 HOURS TOTAL;

(II) 1-WEEK PAY PERIOD IF THE EMPLOYEE WORKED FEWER THAN A COMBINED TOTAL OF ~~16~~ 24 HOURS IN THE CURRENT AND THE IMMEDIATELY PRECEDING PAY PERIOD; OR

(III) PAY PERIOD IN WHICH:

1. THE EMPLOYEE IS PAID TWICE A MONTH REGARDLESS OF THE NUMBER OF WEEKS IN A PAY PERIOD; AND

2. THE EMPLOYEE WORKED FEWER THAN ~~17.3~~ 26 HOURS IN THE PAY PERIOD.

(D) AT THE BEGINNING OF EACH YEAR, AN EMPLOYER MAY AWARD TO AN EMPLOYEE THE FULL AMOUNT OF EARNED SICK AND SAFE LEAVE THAT AN EMPLOYEE WOULD EARN OVER THE COURSE OF THE YEAR RATHER THAN AWARDED THE LEAVE AS THE LEAVE ACCRUES DURING THE YEAR.

(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, FOR THE PURPOSES OF CALCULATING THE ACCRUAL OF EARNED SICK AND SAFE LEAVE, AN EMPLOYEE WHO IS EXEMPT FROM OVERTIME WAGE REQUIREMENTS UNDER THE FEDERAL FAIR LABOR STANDARDS ACT IS ASSUMED TO WORK 40 HOURS EACH WORKWEEK.

(2) IF THE EMPLOYEE'S NORMAL WORKWEEK IS LESS THAN 40 HOURS, THE NUMBER OF HOURS IN THE NORMAL WORKWEEK SHALL BE USED.

(F) EARNED SICK AND SAFE LEAVE SHALL BEGIN TO ACCRUE:

(1) JANUARY 1, 2018; OR

(2) IF THE EMPLOYEE IS HIRED AFTER JANUARY 1, 2018, THE DATE ON WHICH THE EMPLOYEE BEGINS EMPLOYMENT WITH THE EMPLOYER.

(G) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, IF AN EMPLOYEE HAS UNUSED EARNED SICK AND SAFE LEAVE AT THE END OF EACH YEAR, THE EMPLOYEE MAY CARRY OVER THE BALANCE OF THE EARNED SICK AND SAFE LEAVE TO THE FOLLOWING YEAR.

(2) AN EMPLOYER MAY NOT BE REQUIRED TO ALLOW AN EMPLOYEE TO CARRY OVER MORE THAN ~~56~~ 40 HOURS OF EARNED SICK AND SAFE LEAVE UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(3) AN EMPLOYER MAY NOT BE REQUIRED TO ALLOW AN EMPLOYEE TO CARRY OVER UNUSED EARNED SICK AND SAFE LEAVE UNDER PARAGRAPH (1) OF THIS SUBSECTION IF:

(I) THE EMPLOYER AWARDS THE EMPLOYEE THE FULL AMOUNT OF EARNED SICK AND SAFE LEAVE AT THE BEGINNING OF EACH YEAR UNDER SUBSECTION (D) OF THIS SECTION; OR

~~(II) THE EMPLOYMENT OF THE EMPLOYEE IS CONTINGENT ON THE EMPLOYER RECEIVING A GRANT~~ EMPLOYEE IS EMPLOYED BY A NONPROFIT ENTITY OR A GOVERNMENTAL UNIT IN ACCORDANCE WITH A GRANT, THE DURATION OF WHICH IS LIMITED TO 1 YEAR AND IS NOT SUBJECT TO RENEWAL.

(H) IF AN EMPLOYEE IS REHIRED BY THE EMPLOYER WITHIN ~~9 MONTHS~~ 37 WEEKS AFTER LEAVING THE EMPLOYMENT OF THE EMPLOYER, THE EMPLOYER SHALL REINSTATE ANY UNUSED EARNED SICK AND SAFE LEAVE THAT THE EMPLOYEE HAD WHEN THE EMPLOYEE LEFT THE EMPLOYMENT OF THE EMPLOYER UNLESS THE EMPLOYER VOLUNTARILY PAID OUT THE UNUSED EARNED SICK AND SAFE LEAVE ON THE TERMINATION OF EMPLOYMENT.

(I) (1) AN EMPLOYER MAY ALLOW AN EMPLOYEE TO USE EARNED SICK AND SAFE LEAVE BEFORE THE EMPLOYEE ACCRUES THE AMOUNT NEEDED.

(2) IF AN EMPLOYEE IS ALLOWED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO USE EARNED SICK AND SAFE LEAVE BEFORE IT HAS ACCRUED, THE EMPLOYER MAY DEDUCT THE AMOUNT PAID FOR THE EARNED SICK AND SAFE LEAVE FROM THE WAGES PAID TO THE EMPLOYEE ON THE TERMINATION OF EMPLOYMENT UNDER § 3-505 OF THIS TITLE IF:

(I) THE EMPLOYER AND EMPLOYEE MUTUALLY CONSENTED TO THE DEDUCTION AS EVIDENCED BY A DOCUMENT SIGNED BY THE EMPLOYEE; AND

(II) THE EMPLOYEE LEAVES THE EMPLOYMENT OF THE EMPLOYER BEFORE THE EMPLOYEE HAS ACCRUED THE AMOUNT OF EARNED SICK AND SAFE LEAVE THAT WAS USED.

(J) AN EMPLOYER MAY NOT BE REQUIRED TO PAY OUT ON THE TERMINATION OF EMPLOYMENT UNUSED EARNED SICK AND SAFE LEAVE ACCRUED BY AN EMPLOYEE.

(K) AN EMPLOYER WHO ACQUIRES, BY SALE OR OTHERWISE, ANOTHER EMPLOYER SHALL ALLOW ALL EMPLOYEES OF THE ORIGINAL EMPLOYER WHO REMAIN EMPLOYED BY THE SUCCESSOR EMPLOYER TO RETAIN ALL UNUSED EARNED SICK AND SAFE LEAVE ACCRUED DURING EMPLOYMENT WITH THE ORIGINAL EMPLOYER.

~~3-1305.~~

(A) AN EMPLOYER SHALL ALLOW AN EMPLOYEE TO USE EARNED SICK AND SAFE LEAVE:

(1) TO CARE FOR OR TREAT THE EMPLOYEE'S MENTAL OR PHYSICAL ILLNESS, INJURY, OR CONDITION;

(2) TO OBTAIN PREVENTIVE MEDICAL CARE FOR THE EMPLOYEE OR EMPLOYEE'S FAMILY MEMBER;

(3) TO CARE FOR A FAMILY MEMBER WITH A MENTAL OR PHYSICAL ILLNESS, INJURY, OR CONDITION; ~~OR~~

(4) FOR MATERNITY OR PATERNITY LEAVE; OR

~~(4)~~ (5) IF:

(I) THE ABSENCE FROM WORK IS NECESSARY DUE TO DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING COMMITTED AGAINST THE EMPLOYEE OR THE EMPLOYEE'S FAMILY MEMBER; AND

(II) THE LEAVE IS BEING USED:

1. BY THE EMPLOYEE TO OBTAIN FOR THE EMPLOYEE OR THE EMPLOYEE'S FAMILY MEMBER:

A. MEDICAL OR MENTAL HEALTH ATTENTION THAT IS RELATED TO THE DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING;

B. SERVICES FROM A VICTIM SERVICES ORGANIZATION RELATED TO THE DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING; OR

C. LEGAL SERVICES OR PROCEEDINGS RELATED TO OR RESULTING FROM THE DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING; OR

1 2. DURING THE TIME THAT THE EMPLOYEE HAS
2 TEMPORARILY RELOCATED DUE TO THE DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR
3 STALKING.

4 (B) (1) IF THE NEED TO USE EARNED SICK AND SAFE LEAVE IS
5 FORESEEABLE, AN EMPLOYER MAY REQUIRE AN EMPLOYEE TO PROVIDE
6 REASONABLE ADVANCE NOTICE OF NOT MORE THAN 7 DAYS BEFORE THE DATE THE
7 EARNED SICK AND SAFE LEAVE WOULD BEGIN.

8 (2) IF THE NEED TO USE EARNED SICK AND SAFE LEAVE IS NOT
9 FORESEEABLE, AN EMPLOYEE SHALL:

10 (I) PROVIDE NOTICE TO AN EMPLOYER AS SOON AS
11 PRACTICABLE; AND

12 (II) GENERALLY COMPLY WITH THE EMPLOYER'S NOTICE OR
13 PROCEDURAL REQUIREMENTS FOR REQUESTING OR REPORTING OTHER LEAVE, IF
14 THOSE REQUIREMENTS DO NOT INTERFERE WITH THE EMPLOYEE'S ABILITY TO USE
15 EARNED SICK AND SAFE LEAVE.

16 (3) AN EMPLOYER MAY DENY A REQUEST TO TAKE EARNED SICK AND
17 SAFE LEAVE IF:

18 (I) 1. AN EMPLOYEE FAILS TO PROVIDE THE NOTICE
19 REQUIRED UNDER PARAGRAPHS (1) OR (2) OF THIS SUBSECTION; AND

20 ~~(II)~~ 2. THE EMPLOYEE'S ABSENCE WILL CAUSE A
21 DISRUPTION TO THE EMPLOYER; OR

22 (II) 1. THE EMPLOYER IS A PRIVATE EMPLOYER LICENSED
23 UNDER TITLE 7 OR TITLE 10 OF THE HEALTH – GENERAL ARTICLE TO PROVIDE
24 SERVICES TO DEVELOPMENTALLY DISABLED OR MENTALLY ILL INDIVIDUALS;

25 2. THE NEED TO USE EARNED SICK AND SAFE LEAVE IS
26 FORESEEABLE;

27 3. AFTER EXERCISING REASONABLE EFFORTS, THE
28 EMPLOYER IS UNABLE TO PROVIDE A SUITABLE REPLACEMENT EMPLOYEE; AND

29 4. THE EMPLOYEE'S ABSENCE WILL CAUSE A
30 DISRUPTION OF SERVICE TO AT LEAST ONE INDIVIDUAL WITH A DEVELOPMENTAL
31 DISABILITY OR MENTAL ILLNESS.

(C) AN EMPLOYER MAY NOT REQUIRE THAT AN EMPLOYEE WHO IS REQUESTING EARNED SICK AND SAFE LEAVE SEARCH FOR OR FIND AN INDIVIDUAL TO WORK IN THE EMPLOYEE'S STEAD DURING THE TIME THE EMPLOYEE IS TAKING THE LEAVE.

(D) (1) (I) INSTEAD OF TAKING EARNED SICK AND SAFE LEAVE UNDER THIS SECTION, BY MUTUAL CONSENT OF THE EMPLOYER AND EMPLOYEE, AN EMPLOYEE MAY WORK ADDITIONAL HOURS OR TRADE SHIFTS WITH ANOTHER EMPLOYEE DURING A PAY PERIOD, OR THE FOLLOWING PAY PERIOD, TO MAKE UP WORK HOURS THAT THE EMPLOYEE TOOK OFF FOR WHICH THE EMPLOYEE COULD HAVE TAKEN EARNED SICK AND SAFE LEAVE.

~~(2)~~ (II) AN EMPLOYEE IS NOT REQUIRED TO OFFER OR TO ACCEPT AN OFFER OF ADDITIONAL WORK HOURS OR A TRADE IN SHIFTS.

~~(3)~~ (III) IF AN EMPLOYEE WORKS ADDITIONAL HOURS OR TRADES SHIFTS UNDER ~~PARAGRAPH (1) OF THIS SUBSECTION~~ SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE EMPLOYER MAY NOT:

~~(I) BE REQUIRED TO PAY THE EMPLOYEE MORE THAN THE EMPLOYEE'S BASE RATE OF PAY FOR THE EMPLOYEE'S ABSENCE;~~

~~(II) BE REQUIRED TO ALLOW AN EMPLOYEE TO WORK ADDITIONAL HOURS OR SHIFTS THAT WOULD RESULT IN THE EMPLOYER BEING REQUIRED TO PAY OVERTIME TO THE EMPLOYEE; OR~~

~~(III)~~ DEDUCT THE ABSENCE FROM THE EMPLOYEE'S ACCRUED EARNED SICK AND SAFE LEAVE.

(2) (I) THIS PARAGRAPH APPLIES ONLY TO AN EMPLOYEE EMPLOYED IN THE RESTAURANT INDUSTRY WHO IS COMPENSATED AS A TIPPED EMPLOYEE UNDER § 3-419 OF THIS TITLE AND WHO WOULD BE ENTITLED TO PAID LEAVE UNDER § 3-1304 OF THIS SUBTITLE IF THE EMPLOYEE:

1. NEEDS TO TAKE EARNED SICK AND SAFE LEAVE;

2. PREFERS AND IS ABLE TO WORK ADDITIONAL HOURS OR TRADE SHIFTS WITH ANOTHER EMPLOYEE IN THE SAME PAY PERIOD OR THE FOLLOWING PAY PERIOD; AND

3. REQUIRES THE EMPLOYER TO ARRANGE COVERAGE OF THE SHIFT.

1 (II) IF THE EMPLOYER IS CONTACTED TO ARRANGE THE
2 COVERAGE OF A SHIFT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE
3 EMPLOYER SHALL HAVE THE DISCRETION TO OFFER THE EMPLOYEE A CHOICE OF:

4 1. BEING PAID THE MINIMUM WAGE REQUIRED UNDER §
5 3-413 OF THIS TITLE FOR THE EMPLOYEE'S ABSENCE; OR

6 2. WORKING AN EQUIVALENT SHIFT OF THE SAME
7 NUMBER OF HOURS IN THE SAME PAY PERIOD OR THE FOLLOWING PAY PERIOD.

8 (III) AN EMPLOYER THAT DOES NOT OFFER THE TIPPED
9 EMPLOYEE THE CHOICE UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH SHALL PAY
10 TO THE EMPLOYEE THE MINIMUM WAGE REQUIRED UNDER § 3-413 OF THIS TITLE
11 FOR THE USE OF THE EARNED SICK AND SAFE LEAVE.

12 (IV) AN EMPLOYER MAY DEDUCT AN ABSENCE TAKEN UNDER
13 THIS PARAGRAPH FROM THE EMPLOYEE'S ACCRUED EARNED SICK AND SAFE LEAVE.

14 (3) AN EMPLOYER IS NOT REQUIRED TO CONSENT TO AN EMPLOYEE'S
15 REQUEST TO WORK ADDITIONAL HOURS OR TRADE SHIFTS IF THE ADDITIONAL
16 HOURS OR TRADE IN SHIFTS WOULD RESULT IN THE EMPLOYER BEING REQUIRED TO
17 PAY OVERTIME TO THE EMPLOYEE.

18 (E) (1) ~~AN~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
19 SUBSECTION, AN EMPLOYEE MAY TAKE EARNED SICK AND SAFE LEAVE IN THE
20 SMALLEST INCREMENT THAT THE EMPLOYER'S PAYROLL SYSTEM USES TO ACCOUNT
21 FOR ABSENCES OR USE OF THE EMPLOYEE'S WORK TIME.

22 (2) AN ~~EMPLOYEE~~ EMPLOYER MAY ~~NOT BE REQUIRED~~ REQUIRE AN
23 EMPLOYEE TO TAKE EARNED SICK AND SAFE LEAVE IN AN INCREMENT ~~OF MORE~~
24 ~~THAN~~ NOT EXCEEDING 4 HOURS.

25 (F) (1) WHEN WAGES ARE PAID TO AN EMPLOYEE, THE EMPLOYER SHALL
26 PROVIDE IN WRITING BY ANY REASONABLE METHOD A STATEMENT REGARDING THE
27 AMOUNT OF EARNED SICK AND SAFE LEAVE THAT IS AVAILABLE FOR USE BY THE
28 EMPLOYEE.

29 (2) AN EMPLOYER MAY SATISFY THE REQUIREMENT UNDER
30 PARAGRAPH (1) OF THIS SUBSECTION BY PROVIDING AN ONLINE SYSTEM THROUGH
31 WHICH AN EMPLOYEE MAY ASCERTAIN THE BALANCE OF THE EMPLOYEE'S
32 AVAILABLE EARNED SICK AND SAFE LEAVE.

33 (G) (1) AN EMPLOYER MAY REQUIRE AN EMPLOYEE WHO USES EARNED
34 SICK AND SAFE LEAVE ~~FOR MORE THAN TWO CONSECUTIVE SCHEDULED SHIFTS TO~~

1 PROVIDE VERIFICATION THAT THE LEAVE WAS USED APPROPRIATELY UNDER
2 SUBSECTION (A) OF THIS SECTION IF:

3 (I) THE LEAVE WAS USED FOR MORE THAN TWO CONSECUTIVE
4 SCHEDULED SHIFTS; OR

5 (II) 1. THE EMPLOYEE USED THE LEAVE DURING THE PERIOD
6 BETWEEN THE FIRST 107 AND 120 CALENDAR DAYS, BOTH INCLUSIVE, THAT THE
7 EMPLOYEE WAS EMPLOYED BY THE EMPLOYER; AND

8 2. THE EMPLOYEE AGREED TO PROVIDE VERIFICATION
9 UNDER TERMS MUTUALLY AGREED TO BY THE EMPLOYER AND THE EMPLOYEE AT THE
10 TIME THE EMPLOYEE WAS HIRED BY THE EMPLOYER.

11 (2) IF AN EMPLOYEE FAILS OR REFUSES TO PROVIDE VERIFICATION
12 AS REQUIRED BY AN EMPLOYER UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE
13 EMPLOYER MAY DENY A SUBSEQUENT REQUEST TO TAKE EARNED SICK AND SAFE
14 LEAVE FOR THE SAME REASON.

15 3-1306.

16 (A) AN EMPLOYER SHALL NOTIFY THE EMPLOYER'S EMPLOYEES THAT THE
17 EMPLOYEES ARE ENTITLED TO EARNED SICK AND SAFE LEAVE UNDER THIS
18 SUBTITLE.

19 (B) THE NOTICE PROVIDED UNDER SUBSECTION (A) OF THIS SECTION
20 SHALL INCLUDE:

21 (1) A STATEMENT OF HOW EARNED SICK AND SAFE LEAVE IS ACCRUED
22 UNDER § 3-1304 OF THIS SUBTITLE;

23 (2) THE PURPOSES FOR WHICH THE EMPLOYER IS REQUIRED TO
24 ALLOW AN EMPLOYEE TO USE EARNED SICK AND SAFE LEAVE UNDER § 3-1305 OF
25 THIS SUBTITLE;

26 (3) A STATEMENT REGARDING THE PROHIBITION:

27 (I) IN § 3-1309 OF THIS SUBTITLE AGAINST THE EMPLOYER
28 TAKING ADVERSE ACTION AGAINST AN EMPLOYEE WHO EXERCISES A RIGHT UNDER
29 THIS SUBTITLE; AND

30 (II) IN § 3-1310 OF THIS SUBTITLE AGAINST AN EMPLOYEE
31 MAKING A COMPLAINT, BRINGING AN ACTION, OR TESTIFYING IN AN ACTION IN BAD
32 FAITH; AND

(4) INFORMATION REGARDING THE RIGHT OF AN EMPLOYEE TO REPORT AN ALLEGED VIOLATION OF THIS SUBTITLE BY THE EMPLOYER TO THE COMMISSIONER OR TO BRING A CIVIL ACTION UNDER § 3-1308(C) OF THIS SUBTITLE.

(C) THE COMMISSIONER SHALL:

(1) CREATE AND MAKE AVAILABLE A POSTER AND A MODEL NOTICE AT NO CHARGE TO THE EMPLOYER THAT MAY BE USED BY AN EMPLOYER TO COMPLY WITH SUBSECTION (A) OF THIS SECTION;

(2) DEVELOP A MODEL SICK AND SAFE LEAVE POLICY THAT AN EMPLOYER MAY USE AS A SICK AND SAFE LEAVE POLICY IN AN EMPLOYEE HANDBOOK OR OTHER WRITTEN GUIDANCE TO EMPLOYEES CONCERNING EMPLOYEE BENEFITS OR LEAVE PROVIDED BY THE EMPLOYER; AND

(3) PROVIDE TECHNICAL ASSISTANCE TO AN EMPLOYER, IF AN EMPLOYER REQUESTS ASSISTANCE REGARDING IMPLEMENTING THE PROVISIONS OF THIS SUBTITLE.

(D) THE DEPARTMENT SHALL POST THE NOTICE AND MODEL SICK AND SAFE LEAVE POLICY CREATED AND DEVELOPED UNDER SUBSECTION (C)(1) AND (2) OF THIS SECTION ON THE DEPARTMENT'S WEB SITE IN A DOWNLOADABLE FORMAT.

3-1307.

(A) AN EMPLOYER SHALL KEEP FOR AT LEAST 3 YEARS A RECORD OF:

(1) EARNED SICK AND SAFE LEAVE ACCRUED BY EACH EMPLOYEE;
AND

(2) EARNED SICK AND SAFE LEAVE USED BY EACH EMPLOYEE.

(B) THE COMMISSIONER MAY INSPECT A RECORD KEPT UNDER SUBSECTION (A) OF THIS SECTION FOR THE PURPOSE OF DETERMINING WHETHER THE EMPLOYER IS COMPLYING WITH THE PROVISIONS OF THIS SUBTITLE.

(C) (1) AN EMPLOYER THAT FAILS TO KEEP ACCURATE RECORDS OR REFUSES TO ALLOW THE COMMISSIONER TO INSPECT A RECORD KEPT UNDER SUBSECTION (A) OF THIS SECTION ~~SHALL BE PRESUMED TO HAVE~~ CREATES A REBUTTABLE PRESUMPTION THAT THE EMPLOYER VIOLATED THIS SUBTITLE.

(2) THE COMMISSIONER MAY WAIVE A CIVIL PENALTY ASSESSED UNDER THIS SUBTITLE IF THE PENALTY WAS ASSESSED FOR A VIOLATION THAT WAS DUE TO AN ERROR CAUSED BY A THIRD-PARTY PAYROLL SERVICE PROVIDER WITH WHOM THE EMPLOYER IN GOOD FAITH CONTRACTED FOR SERVICES.

~~(1) AN EMPLOYER MAY NOT BE ASSESSED A CIVIL PENALTY BY THE COMMISSIONER UNDER THIS SUBTITLE DUE TO AN UNINTENTIONAL PAYROLL ERROR OR WRITTEN NOTICE ERROR CAUSED BY A THIRD-PARTY PAYROLL SERVICE PROVIDER WITH WHOM THE EMPLOYER CONTRACTED FOR SERVICES.~~

~~(II) IF AN EMPLOYER CONTRACTS WITH A THIRD-PARTY PAYROLL SERVICE PROVIDER AND THE EMPLOYER IS FOUND IN VIOLATION OF THIS SUBTITLE AS A RESULT OF THE PAYROLL SERVICE PROVIDER'S ACTIONS, THE PAYROLL SERVICE PROVIDER IS LIABLE FOR ANY PENALTIES AND COSTS INCURRED BY THE EMPLOYER.~~

3-1308.

(A) IF AN EMPLOYEE BELIEVES THAT AN EMPLOYER HAS VIOLATED THIS SUBTITLE, THE EMPLOYEE MAY FILE A WRITTEN COMPLAINT WITH THE COMMISSIONER.

(B) (1) WITHIN 90 DAYS AFTER THE RECEIPT OF A WRITTEN COMPLAINT, THE COMMISSIONER SHALL CONDUCT AN INVESTIGATION AND ATTEMPT TO RESOLVE THE ISSUE INFORMALLY THROUGH MEDIATION.

(2) (I) IF THE COMMISSIONER IS UNABLE TO RESOLVE AN ISSUE THROUGH MEDIATION DURING THE PERIOD STATED IN PARAGRAPH (1) OF THIS SUBSECTION AND THE COMMISSIONER DETERMINES THAT AN EMPLOYER HAS VIOLATED THIS SUBTITLE, THE COMMISSIONER SHALL ISSUE AN ORDER.

(II) AN ORDER ISSUED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH:

1. SHALL DESCRIBE THE VIOLATION;

2. SHALL DIRECT THE PAYMENT OF THE FULL MONETARY VALUE OF ANY UNPAID EARNED SICK AND SAFE LEAVE AND ANY ACTUAL ECONOMIC DAMAGES;

3. MAY, IN THE COMMISSIONER'S DISCRETION, DIRECT THE PAYMENT OF AN ADDITIONAL AMOUNT UP TO THREE TIMES THE VALUE OF THE EMPLOYEE'S HOURLY WAGE FOR EACH VIOLATION; AND

1 4. MAY, IN THE COMMISSIONER’S DISCRETION, ASSESS A
2 CIVIL PENALTY OF UP TO \$1,000 FOR EACH EMPLOYEE FOR WHOM THE EMPLOYER
3 IS NOT IN COMPLIANCE WITH THIS SUBTITLE.

4 (3) THE ACTIONS TAKEN UNDER PARAGRAPHS (1) AND (2) OF THIS
5 SUBSECTION ARE SUBJECT TO THE HEARING AND NOTICE REQUIREMENTS OF TITLE
6 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

7 (c) (1) WITHIN 30 DAYS AFTER THE COMMISSIONER ISSUES AN ORDER,
8 AN EMPLOYER SHALL COMPLY WITH THE ORDER.

9 (2) IF AN EMPLOYER DOES NOT COMPLY WITH AN ORDER WITHIN THE
10 TIME PERIOD STATED IN PARAGRAPH (1) OF THIS SUBSECTION:

11 (i) THE COMMISSIONER MAY:

12 1. WITH THE WRITTEN CONSENT OF THE EMPLOYEE, ASK
13 THE ATTORNEY GENERAL TO BRING AN ACTION ON BEHALF OF THE EMPLOYEE IN
14 THE COUNTY WHERE THE EMPLOYER IS LOCATED; OR

15 2. BRING AN ACTION TO ENFORCE THE ORDER FOR THE
16 CIVIL PENALTY IN THE COUNTY WHERE THE EMPLOYER IS LOCATED; AND

17 (ii) WITHIN 3 YEARS AFTER THE DATE OF THE ORDER, AN
18 EMPLOYEE MAY BRING A CIVIL ACTION TO ENFORCE THE ORDER IN THE COUNTY
19 WHERE THE EMPLOYER IS LOCATED.

20 (3) IF AN EMPLOYEE PREVAILS IN AN ACTION BROUGHT UNDER
21 PARAGRAPH (2)(ii) OF THIS SUBSECTION TO ENFORCE AN ORDER, THE COURT
22 ~~SHALL~~ MAY AWARD:

23 (i) THREE TIMES THE VALUE OF THE EMPLOYEE’S UNPAID
24 EARNED SICK AND SAFE LEAVE;

25 (ii) PUNITIVE DAMAGES IN AN AMOUNT TO BE DETERMINED BY
26 THE COURT;

27 (iii) REASONABLE COUNSEL FEES AND OTHER COSTS;

28 (iv) INJUNCTIVE RELIEF, IF APPROPRIATE; AND

29 (v) ANY OTHER RELIEF THAT THE COURT DEEMS
30 APPROPRIATE.

1 **3-1309.**

2 (A) IN THIS SECTION, "ADVERSE ACTION" INCLUDES:

3 (1) DISCHARGE;

4 (2) DEMOTION;

5 (3) THREATENING THE EMPLOYEE WITH DISCHARGE OR DEMOTION;

6 AND

7 (4) ANY OTHER RETALIATORY ACTION THAT RESULTS IN A CHANGE
8 TO THE TERMS OR CONDITIONS OF EMPLOYMENT THAT WOULD DISSUADE A
9 REASONABLE EMPLOYEE FROM EXERCISING A RIGHT UNDER THIS SUBTITLE.

10 (B) A PERSON MAY NOT INTERFERE WITH THE EXERCISE OF OR THE
11 ATTEMPT TO EXERCISE ANY RIGHT GIVEN UNDER THIS SUBTITLE.

12 (C) AN EMPLOYER MAY NOT:

13 (1) TAKE ADVERSE ACTION OR DISCRIMINATE AGAINST AN EMPLOYEE
14 BECAUSE THE EMPLOYEE EXERCISES IN GOOD FAITH THE RIGHTS PROTECTED
15 UNDER THIS SUBTITLE;

16 (2) INTERFERE WITH, RESTRAIN, OR DENY THE EXERCISE BY AN
17 EMPLOYEE OF ANY RIGHT PROVIDED FOR UNDER THIS SUBTITLE; OR

18 (3) APPLY AN ABSENCE CONTROL POLICY THAT INCLUDES EARNED
19 SICK AND SAFE LEAVE ABSENCES AS AN ABSENCE THAT MAY LEAD TO OR RESULT IN
20 AN ADVERSE ACTION BEING TAKEN AGAINST AN EMPLOYEE.

21 (D) THE PROTECTIONS AFFORDED UNDER THIS SUBTITLE SHALL APPLY TO
22 AN EMPLOYEE WHO MISTAKENLY, BUT IN GOOD FAITH, ALLEGES A VIOLATION OF
23 THIS SUBTITLE.

24 **3-1310.**

25 (A) AN EMPLOYEE MAY NOT IN BAD FAITH:

26 (1) FILE A COMPLAINT WITH THE COMMISSIONER ALLEGING A
27 VIOLATION OF THIS SUBTITLE;

28 (2) BRING AN ACTION UNDER § 3-1308 OF THIS SUBTITLE; OR

(3) TESTIFY IN AN ACTION UNDER § 3-1308 OF THIS SUBTITLE.

(B) AN EMPLOYEE WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000.

3-1311.

THIS SUBTITLE MAY BE CITED AS THE MARYLAND HEALTHY WORKING FAMILIES ACT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any bona fide collective bargaining agreement entered into before June 1, 2017, for the duration of the contract term, excluding any extensions, options to extend, or renewals of the term of the original agreement.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act may not be construed to preempt any federal law or regulation governing employees subject to federal law or regulations.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2018.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.