

# SENATE BILL 727

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EMERGENCY BILL

1lr1983  
CF 1lr1686

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By: **Senator Feldman**

Introduced and read first time: February 5, 2021

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Healthy Working Families Act – Revisions and Public Health**  
3 **Emergency Leave**

4 FOR the purpose of repealing the exemption from the Maryland Healthy Working Families  
5 Act for certain on-call employees; requiring employers to allow employees to use  
6 earned sick and safe leave during a public health emergency; requiring certain  
7 employers to provide employees certain earned sick and safe leave on the date that  
8 a public health emergency is declared or proclaimed for a jurisdiction; requiring  
9 employers to determine certain hours in a certain manner for certain employees;  
10 prohibiting certain employers from being required to provide additional paid earned  
11 sick and safe leave on the renewal of a certain declaration or proclamation or on the  
12 issuance of a certain declaration or proclamation; requiring an employer to provide  
13 certain earned sick and safe leave regardless of the employee's length of employment  
14 with the employer; requiring an employer to allow an employee to use certain earned  
15 sick and safe leave during certain weeks; requiring an employer to allow an employee  
16 to use certain earned sick and safe leave for certain purposes; authorizing an  
17 employee to use certain earned sick and safe leave before using certain other earned  
18 sick and safe leave; authorizing an employer to require an employee to provide  
19 certain notice only under certain circumstances; prohibiting an employer from  
20 requiring an employee to provide certain documentation; requiring an employer to  
21 provide a certain notice to employees at certain times and, under certain  
22 circumstances, in certain languages; requiring the Commissioner of Labor and  
23 Industry to develop a certain model poster and notice; requiring an employer to  
24 provide certain earned sick and safe leave to employees on a certain date and apply  
25 it retroactively for certain employees under certain circumstances; defining certain  
26 terms; altering certain definitions; making conforming changes; making this Act an  
27 emergency measure; and generally relating to the Maryland Healthy Working  
28 Families Act.

29 BY renumbering

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Labor and Employment

Section 3–1307 through 3–1308 and 3–1311, respectively  
to be Section 3–1308 through 3–1309 and 3–1312, respectively  
Annotated Code of Maryland  
(2016 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – Labor and Employment  
Section 3–1301, 3–1303, 3–1304(c), 3–1305(a), 3–1306, 3–1309, and 3–1310  
Annotated Code of Maryland  
(2016 Replacement Volume and 2020 Supplement)

BY adding to

Article – Labor and Employment  
Section 3–1306  
Annotated Code of Maryland  
(2016 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
That Section(s) 3–1307 through 3–1308 and 3–1311, respectively, of Article – Labor and  
Employment of the Annotated Code of Maryland be renumbered to be Section(s) 3–1308  
through 3–1309 and 3–1312, respectively.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
as follows:

### Article – Labor and Employment

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 leave away from work that is provided by  
an employer under § 3–1304 **OR § 3–1306** 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; **OR**

(3) is under the age of 18 years before the beginning of the year[];

(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 CHILD OF THE EMPLOYEE'S DOMESTIC PARTNER;**

**(5)** a biological parent, an adoptive parent, a foster parent, or a stepparent of the employee or of the employee's spouse;

**[(5)] (6)** the legal guardian or ward of the employee or of the employee's spouse;

**[(6)] (7)** 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)] (8)** the [spouse of the employee] **INDIVIDUAL WHO IS RECOGNIZED AS THE EMPLOYEE'S SPOUSE OR DOMESTIC PARTNER OR AS BEING IN A SIMILAR UNION WITH THE EMPLOYEE UNDER THE LAWS OF ANY STATE OR JURISDICTION;**

1           ~~[(8)]~~ **(9)**       a biological grandparent, an adopted grandparent, a foster  
2 grandparent, or a stepgrandparent of the employee;

3           ~~[(9)]~~ **(10)**     a biological grandchild, an adopted grandchild, a foster  
4 grandchild, or a stepgrandchild of the employee; ~~[or]~~

5           ~~[(10)]~~ **(11)**   a biological sibling, an adopted sibling, a foster sibling, or a  
6 stepsibling of the employee; **OR**

7           **(12) ANY OTHER INDIVIDUAL RELATED BY BLOOD TO OR WHOSE CLOSE**  
8 **ASSOCIATION WITH THE EMPLOYEE IS THE EQUIVALENT OF A FAMILY**  
9 **RELATIONSHIP.**

10          **(H) “HEALTH CARE PROFESSIONAL” MEANS AN INDIVIDUAL LICENSED OR**  
11 **CERTIFIED UNDER FEDERAL OR STATE LAW TO PROVIDE MEDICAL OR EMERGENCY**  
12 **SERVICES.**

13          ~~[(h)]~~ **(I)**       “Person eligible for relief” has the meaning stated in § 4–501 of the  
14 Family Law Article.

15          **(J) “PUBLIC HEALTH EMERGENCY” MEANS A DECLARATION OR**  
16 **PROCLAMATION RELATED TO A PUBLIC HEALTH THREAT, RISK, DISASTER, OR**  
17 **EMERGENCY THAT IS ISSUED BY A FEDERAL, STATE, OR LOCAL OFFICIAL WITH THE**  
18 **AUTHORITY TO MAKE SUCH A DECLARATION OR PROCLAMATION.**

19          **(K) “PUBLIC HEALTH OFFICER” MEANS THE U.S. SURGEON GENERAL, THE**  
20 **SECRETARY OF HEALTH, OR THE COUNTY HEALTH OFFICER.**

21          ~~[(i)]~~ **(L)**       “Restaurant” means an establishment that:

22               (1)     accommodates the public;

23               (2)     is equipped with a dining room with facilities for preparing and serving  
24 regular meals; and

25               (3)     has average daily receipts from the sale of food that exceed the average  
26 daily receipts from the sale of alcoholic beverages.

27          ~~[(j)]~~ **(M)**       “Sexual assault” means:

28               (1)     rape, sexual offense, or any other act that is a sexual crime under Title  
29 3, Subtitle 3 of the Criminal Law Article;

30               (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)] (N)** “Stalking” has the meaning stated in § 3–802 of the Criminal Law Article.

**[(l)] (O)** Unless the context requires otherwise, “year” means a regular and consecutive 12–month period as determined by the 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;

(iii) is not guaranteed to be called on to work by the employer; and

(iv) is not employed by a temporary staffing agency[].

(b) For the purpose of subsection (a)(2)(i) of this section, an employee who is employed in the construction industry does not include an employee employed as:

(1) a janitor;

(2) a building cleaner;

(3) a building security officer;

(4) a concierge;

(5) a doorman;

(6) a handyperson; or

(7) a building superintendent.

(c) (1) Except as provided in paragraph (2) of this subsection, if a unit of State or local government's sick leave accrual and use requirements meet or exceed the sick and safe leave provided for under this subtitle, employees of the unit of State or local government who are part of the unit's personnel system are subject to the unit's laws, regulations, policies, and procedures providing for:

(i) accrual and use of sick leave;

(ii) grievances; and

(iii) disciplinary actions.

(2) Employees of a unit of State government that are entitled to sick and safe leave under this subtitle and who are not covered by the unit's sick leave and accrual and use requirements are subject to § 3-1308 of this subtitle.

3-1304.

(c) **[An] EXCEPT AS PROVIDED IN § 3-1306 OF THIS SUBTITLE, AN** employer may not be required to allow an employee to:

(1) earn more than 40 hours of earned sick and safe leave in a year;

(2) use more than 64 hours of earned sick and safe leave in a year;

(3) accrue a total of more than 64 hours at any time;

(4) use earned sick and safe leave during the first 106 calendar days the employee works for the employer; or

(5) accrue earned sick and safe leave during a:

(i) 2-week pay period in which the employee worked fewer than 24 hours total;

(ii) 1-week pay period if the employee worked fewer than a combined total of 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 26 hours in the pay period.

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;

(4) for maternity or paternity leave; [or]

**(5) SUBJECT TO § 3-1306 OF THIS SUBTITLE, DURING A PUBLIC HEALTH EMERGENCY; OR**

**[(5)] (6)** 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

2. during the time that the employee has temporarily relocated due to the domestic violence, sexual assault, or stalking.

**3-1306.**

**(A) (1) NOTWITHSTANDING § 3-1304(A) OF THIS SUBTITLE, ON THE DATE THAT A PUBLIC HEALTH EMERGENCY IS DECLARED OR PROCLAIMED FOR A JURISDICTION, EACH EMPLOYER IN THE JURISDICTION SHALL PROVIDE EACH EMPLOYEE PAID EARNED SICK AND SAFE LEAVE:**

(I) THAT IS IN ADDITION TO THE EARNED SICK AND SAFE LEAVE REQUIRED TO BE PROVIDED UNDER § 3-1304 OF THIS SUBTITLE; AND

(II) IN THE FOLLOWING AMOUNTS:

1. FOR FULL-TIME EMPLOYEES WHO REGULARLY WORK 40 HOURS OR MORE PER WEEK, 112 HOURS; AND

2. SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, FOR EMPLOYEES WHO REGULARLY WORK FEWER THAN 40 HOURS PER WEEK, AN AMOUNT OF HOURS EQUIVALENT TO THE AMOUNT OF HOURS THE EMPLOYEE WORKS ON AVERAGE OVER A TYPICAL 2-WEEK OR 4-WEEK WORKING PERIOD, WHICHEVER IS GREATER.

(2) FOR AN EMPLOYEE PROVIDED PAID EARNED SICK AND SAFE LEAVE UNDER PARAGRAPH (1)(II)2 OF THIS SUBSECTION AND WHOSE WORK SCHEDULE VARIES FROM WEEK TO WEEK, THE EMPLOYER SHALL DETERMINE THE AMOUNT OF HOURS WORKED ON AVERAGE IN A 2-WEEK PERIOD BY:

(I) DETERMINING THE AVERAGE NUMBER OF HOURS THAT THE EMPLOYEE WAS SCHEDULED TO WORK OVER A 6-MONTH PERIOD ENDING ON THE DATE ON WHICH THE PUBLIC HEALTH EMERGENCY WAS DECLARED OR PROCLAIMED, INCLUDING HOURS FOR WHICH THE EMPLOYEE TOOK LEAVE OF ANY TYPE; OR

(II) IF THE EMPLOYEE DID NOT WORK OVER THE 6-MONTH PERIOD, THE REASONABLE EXPECTATION OF THE EMPLOYEE AT THE TIME OF HIRING OF THE AVERAGE NUMBER OF HOURS PER WEEK THAT THE EMPLOYEE NORMALLY WOULD BE SCHEDULED TO WORK.

(3) IF AN EMPLOYER HAS ALREADY PROVIDED PAID EARNED SICK AND SAFE LEAVE AS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE EMPLOYER MAY NOT BE REQUIRED TO PROVIDE ADDITIONAL PAID EARNED SICK AND SAFE LEAVE UNDER PARAGRAPH (1) OF THIS SUBSECTION ON THE RENEWAL OF THE DECLARATION OR PROCLAMATION OR ON THE ISSUANCE OF A PUBLIC HEALTH EMERGENCY DECLARATION OR PROCLAMATION BY ANOTHER JURISDICTION FOR THE SAME PUBLIC HEALTH EMERGENCY.

(B) (1) THE EMPLOYER SHALL PROVIDE PAID EARNED SICK AND SAFE LEAVE UNDER SUBSECTION (A) OF THIS SECTION TO AN EMPLOYEE REGARDLESS OF THE EMPLOYEE'S LENGTH OF EMPLOYMENT WITH THE EMPLOYER.

1           **(2) EACH EMPLOYER SHALL ALLOW AN EMPLOYEE TO USE THE PAID**  
2 **EARNED SICK AND SAFE LEAVE PROVIDED UNDER SUBSECTION (A) OF THIS SECTION**  
3 **DURING THE 3 WEEKS IMMEDIATELY FOLLOWING THE OFFICIAL TERMINATION OR**  
4 **SUSPENSION OF THE PUBLIC HEALTH EMERGENCY.**

5           **(C) EACH EMPLOYER SHALL ALLOW AN EMPLOYEE TO USE PAID EARNED**  
6 **SICK AND SAFE LEAVE PROVIDED UNDER SUBSECTION (A) OF THIS SECTION IN**  
7 **RELATION TO A PUBLIC HEALTH EMERGENCY:**

8           **(1) TO ISOLATE WITHOUT AN ORDER TO DO SO BECAUSE THE**  
9 **EMPLOYEE:**

10                   **(I) HAS BEEN DIAGNOSED WITH A COMMUNICABLE DISEASE; OR**

11                   **(II) IS EXPERIENCING SYMPTOMS ASSOCIATED WITH A**  
12 **COMMUNICABLE DISEASE;**

13           **(2) TO SEEK OR OBTAIN:**

14                   **(I) A MEDICAL DIAGNOSIS, CARE, OR TREATMENT BECAUSE**  
15 **THE EMPLOYEE IS EXPERIENCING SYMPTOMS ASSOCIATED WITH A COMMUNICABLE**  
16 **DISEASE; OR**

17                   **(II) PREVENTIVE CARE CONCERNING A COMMUNICABLE**  
18 **DISEASE;**

19           **(3) CARE FOR A FAMILY MEMBER WHO IS ISOLATING, WITHOUT AN**  
20 **ORDER TO DO SO, BECAUSE OF A DIAGNOSIS OR SYMPTOMS OF A COMMUNICABLE**  
21 **DISEASE;**

22           **(4) DUE TO A DETERMINATION BY A PUBLIC HEALTH OFFICIAL OR**  
23 **HEALTH CARE PROFESSIONAL THAT THE EMPLOYEE'S PRESENCE AT THE PLACE OF**  
24 **EMPLOYMENT OR IN THE COMMUNITY WOULD JEOPARDIZE THE HEALTH OF OTHER**  
25 **INDIVIDUALS BECAUSE OF THE EMPLOYEE'S EXPOSURE TO, OR EXHIBITED**  
26 **SYMPTOMS ASSOCIATED WITH, A COMMUNICABLE DISEASE REGARDLESS OF**  
27 **WHETHER THE EMPLOYEE HAS BEEN DIAGNOSED WITH A COMMUNICABLE DISEASE;**

28           **(5) TO CARE FOR A FAMILY MEMBER DUE TO A DETERMINATION BY A**  
29 **PUBLIC HEALTH OFFICIAL OR HEALTH CARE PROFESSIONAL THAT THE FAMILY**  
30 **MEMBER'S PRESENCE AT THE PLACE OF EMPLOYMENT OR IN THE COMMUNITY**  
31 **WOULD JEOPARDIZE THE HEALTH OF OTHERS BECAUSE OF THE FAMILY MEMBER'S**  
32 **EXPOSURE TO, OR EXHIBITED SYMPTOMS ASSOCIATED WITH, A COMMUNICABLE**  
33 **DISEASE OR DUE TO SYMPTOMS EXHIBITED REGARDLESS OF WHETHER THE FAMILY**

1 MEMBER HAS BEEN DIAGNOSED WITH A COMMUNICABLE DISEASE;

2 (6) DUE TO THE EMPLOYEE'S INABILITY TO WORK OR TELEWORK  
3 WHILE SUBJECT TO AN INDIVIDUAL OR FEDERAL, STATE, OR LOCAL  
4 SHELTER-IN-PLACE OR STAY-AT-HOME ORDER;

5 (7) DUE TO THE CLOSURE OF THE EMPLOYER'S BUSINESS DUE TO A  
6 PUBLIC HEALTH EMERGENCY;

7 (8) TO CARE FOR A CHILD OR OTHER FAMILY MEMBER:

8 (I) WHEN THE CARE PROVIDER OF THE FAMILY MEMBER IS  
9 UNAVAILABLE DUE TO THE PUBLIC HEALTH EMERGENCY; OR

10 (II) IF THE CHILD'S OR FAMILY MEMBER'S SCHOOL OR PLACE OF  
11 CARE HAS BEEN CLOSED BY A FEDERAL, STATE, OR LOCAL PUBLIC OFFICIAL OR AT  
12 THE DISCRETION OF THE SCHOOL OR PLACE OF CARE DUE TO THE PUBLIC HEALTH  
13 EMERGENCY, INCLUDING IF THE SCHOOL OR PLACE OF CARE IS PHYSICALLY  
14 CLOSED BUT PROVIDING INSTRUCTION REMOTELY; OR

15 (9) DUE TO THE EMPLOYEE'S INABILITY TO WORK BECAUSE THE  
16 EMPLOYEE HAS A HEALTH CONDITION THAT MAY INCREASE SUSCEPTIBILITY TO, OR  
17 RISK OF, A COMMUNICABLE DISEASE INCLUDING:

18 (I) AGE;

19 (II) HEART DISEASE;

20 (III) ASTHMA;

21 (IV) LUNG DISEASE;

22 (V) DIABETES;

23 (VI) KIDNEY DISEASE; OR

24 (VII) A WEAKENED IMMUNE SYSTEM.

25 (D) AN EMPLOYEE MAY USE THE PAID EARNED SICK AND SAFE LEAVE  
26 PROVIDED UNDER THIS SECTION BEFORE USING THE EARNED SICK AND SAFE LEAVE  
27 PROVIDED UNDER THIS SUBTITLE FOR THE PURPOSES OF § 3-1305(A) OF THIS  
28 SUBTITLE.

1       (E) NOTWITHSTANDING § 3-1305(B) OF THIS SUBTITLE, AN EMPLOYER MAY  
2 REQUIRE AN EMPLOYEE TO PROVIDE NOTICE TO THE EMPLOYER OF THE NEED FOR  
3 PAID EARNED SICK AND SAFE LEAVE PROVIDED UNDER THIS SECTION AS SOON AS  
4 PRACTICABLE ONLY IF THE NEED FOR PAID SICK LEAVE IS FORESEEABLE AND THE  
5 EMPLOYER'S PLACE OF BUSINESS HAS NOT BEEN CLOSED DUE TO THE PUBLIC  
6 HEALTH EMERGENCY.

7       (F) NOTWITHSTANDING § 3-1305 OF THIS SUBTITLE, AN EMPLOYER MAY  
8 NOT REQUIRE AN EMPLOYEE TO PROVIDE DOCUMENTATION FOR THE USE OF PAID  
9 EARNED SICK AND SAFE LEAVE UNDER THIS SECTION.

10       (G) (1) WITHIN 7 DAYS AFTER A PUBLIC HEALTH EMERGENCY IS  
11 DECLARED OR PROCLAIMED, EACH EMPLOYER SHALL PROVIDE EACH EMPLOYEE  
12 WITH WRITTEN NOTICE OF THE PUBLIC HEALTH EMERGENCY AND THE EMPLOYEE'S  
13 RIGHT TO PAID EARNED SICK AND SAFE LEAVE UNDER THIS SECTION.

14       (2) IF A PUBLIC HEALTH EMERGENCY CONTINUES FOR A PERIOD  
15 LONGER THAN 3 MONTHS, EACH EMPLOYER SHALL PROVIDE THE NOTICE REQUIRED  
16 UNDER PARAGRAPH (1) OF THIS SUBSECTION EVERY 3 MONTHS.

17       (3) IF MADE AVAILABLE BY THE COMMISSIONER UNDER § 3-1307(C)  
18 OF THIS SUBTITLE, EACH EMPLOYER SHALL PROVIDE THE NOTICES REQUIRED  
19 UNDER THIS SUBSECTION IN ENGLISH, SPANISH, AND ANY OTHER LANGUAGE THAT  
20 IS THE FIRST LANGUAGE SPOKEN BY AT LEAST 25% OF THE EMPLOYER'S  
21 EMPLOYEES.

22 [3-1306.] 3-1307.

23       (a) An employer shall notify the employer's employees that the employees are  
24 entitled to earned sick and safe leave under this subtitle.

25       (b) The notice provided under subsection (a) of this section shall include:

26               (1) a statement of how earned sick and safe leave is accrued under §  
27 3-1304 of this subtitle;

28               (2) the purposes for which the employer is required to allow an employee  
29 to use earned sick and safe leave under § 3-1305 of this subtitle;

30               (3) a statement regarding the prohibition:

31                       (i) in [§ 3-1309] § 3-1310 of this subtitle against the employer  
32 taking adverse action against an employee who exercises a right under this subtitle; and

33                       (ii) in [§ 3-1310] § 3-1311 of this subtitle against an employee

1 making a complaint, bringing an action, or testifying in an action in bad faith; and

2 (4) information regarding the right of an employee to report an alleged  
3 violation of this subtitle by the employer to the Commissioner or to bring a civil action  
4 under [§ 3-1308(c)] **§ 3-1309(C)** of this subtitle.

5 (c) The Commissioner shall:

6 (1) create and make available a poster and a model notice at no charge to  
7 the employer that may be used by an employer to comply with subsection (a) of this section  
8 **AND § 3-1306(G) OF THIS SUBTITLE;**

9 (2) develop a model sick and safe leave policy that an employer may use as  
10 a sick and safe leave policy in an employee handbook or other written guidance to  
11 employees concerning employee benefits or leave provided by the employer; and

12 (3) provide technical assistance to an employer, if an employer requests  
13 assistance regarding implementing the provisions of this subtitle.

14 (d) The Department shall post the notice and model sick and safe leave policy  
15 created and developed under subsection (c)(1) and (2) of this section on the Department's  
16 website in a downloadable format.

17 **[3-1309.] 3-1310.**

18 (a) In this section, "adverse action" includes:

19 (1) discharge;

20 (2) demotion;

21 (3) threatening the employee with discharge or demotion; and

22 (4) any other retaliatory action that results in a change to the terms or  
23 conditions of employment **OR** that would dissuade a reasonable employee from exercising  
24 a right under this subtitle.

25 (b) A person may not interfere with the exercise of or the attempt to exercise any  
26 right given under this subtitle.

27 (c) An employer may not:

28 (1) take adverse action or discriminate against an employee because the  
29 employee exercises in good faith the rights protected under this subtitle;

30 (2) interfere with, restrain, or deny the exercise by an employee of any right  
31 provided for under this subtitle; or

1           (3)     apply an absence control policy that includes earned sick and safe leave  
2 absences as an absence that may lead to or result in an adverse action being taken against  
3 an employee.

4           (d)     The protections afforded under this subtitle shall apply to an employee who  
5 mistakenly, but in good faith, alleges a violation of this subtitle.

6     ~~[3-1310.]~~ **3-1311.**

7           (a)     An employee may not in bad faith:

8                   (1)     file a complaint with the Commissioner alleging a violation of this  
9 subtitle;

10                  (2)     bring an action under ~~[§ 3-1308]~~ **§ 3-1309** of this subtitle; or

11                  (3)     testify in an action under ~~[§ 3-1308]~~ **§ 3-1309** of this subtitle.

12           (b)     An employee who violates this section is guilty of a misdemeanor and on  
13 conviction is subject to a fine not exceeding \$1,000.

14           SECTION 3. AND BE IT FURTHER ENACTED, That, if a public health emergency  
15 that was declared or proclaimed due to COVID-19 remains in effect on the effective date of  
16 this Act, each employer shall:

17                   (1)     provide paid earned sick and safe leave under § 3-1306 of the Labor  
18 and Employment Article, as enacted by Section 2 of this Act to employees on the effective  
19 date of this Act; and

20                   (2)     apply the paid earned sick and safe leave retroactively for employees  
21 employed on the effective date of this Act back to the date the public health emergency was  
22 declared or proclaimed.

23           SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency  
24 measure, is necessary for the immediate preservation of the public health or safety, has  
25 been passed by a yea and nay vote supported by three-fifths of all the members elected to  
26 each of the two Houses of the General Assembly, and shall take effect from the date it is  
27 enacted.