

HB0581/273890/1

BY: Economic Matters Committee

AMENDMENTS TO HOUSE BILL 581

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “requiring” in line 4 down through “circumstances;” in line 11; in line 11, strike “an” and substitute “each”; in line 12, strike “authorizing” and substitute “providing that”; in line 13, after “worker” insert “has the right”; in the same line, strike “fulfill” and substitute “perform”; strike beginning with “responsibility” in line 13 down through “circumstances” in line 14 and substitute “task as provided under certain provisions of law”; strike beginning with “prohibiting” in line 14 down through “purpose;” in line 17; in line 18, after “of” insert “certain provisions”; strike beginning with “requiring” in line 18 down through “plan;” in line 21; in line 23, strike “costs associated with” and substitute “for”; in the same line, after “testing” insert “except”; in line 24, strike “employees” and substitute “employers”; in line 25, after “manner;” insert “requiring the Maryland Department of Health to collect certain test results, categorize the results in a certain manner, and publish the results in a certain format;”; in line 26, strike “bereavement and health” and substitute “public health emergency”; in the same line, after “leave” insert “on a certain date; requiring an essential employer to provide public health emergency leave in a certain manner and in certain amounts; requiring an essential employer to allow an essential worker to use public health emergency leave for certain reasons; authorizing an essential employer to require an essential worker who uses public health emergency leave to provide certain documentation and to refuse to pay an essential worker for certain public health emergency leave under certain circumstances”; and strike beginning with “requiring” in line 26 down through “essential” in line 31.

On page 2, in line 1, strike “worker’s eligibility for State means–tested benefit programs;”; in line 2, after “from” insert “knowingly”; in the same line, after “worker;” insert “requiring and authorizing the Commissioner to adopt certain regulations; requiring the Commissioner to enforce certain occupational safety and health”

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requirements for certain essential workers; prohibiting an employer from discharging or otherwise discriminating against an employee because the employee is an essential worker who files a complaint or exercises a right under certain provisions of law;”; in the same line, after “terms;” insert “requiring the Secretary of Labor to adopt a certain Emergency Temporary Standard within a certain period of time; requiring the Secretary to set a certain standard to expire at a certain time; requiring that a certain standard remain in effect whether or not it becomes the subject of federal litigation; requiring that a certain standard require employers to take certain actions; requiring the Maryland Department of Health, in consultation with the Maryland Department of Labor and local health departments, to develop a template health emergency preparedness plan for responding to a catastrophic health emergency on or before a certain date; specifying the contents of the health emergency preparedness plan; requiring the Maryland Department of Health, in consultation with the Maryland Department of Labor and local health departments, to report to the General Assembly on or before a certain date on recommendations for certain legislation; requiring Maryland Occupational Safety and Health to report to the General Assembly on or before a certain date; requiring the Commissioner to adopt certain regulations as soon as practicable after a certain date; requiring each essential employer to provide certain public health emergency paid leave to each essential worker on a certain date;”; in line 3, after “of” insert “certain provisions of”; in the same line, strike the comma and substitute “; providing for the termination of certain provisions of this Act;”; strike in their entirety lines 5 through 14, inclusive; in line 17, strike “3-1612” and substitute “3-1609”; in the same line, after “be” insert “under”; in line 18, after “Act” insert “; and 5-205(p)”; and after line 20, insert:

“BY repealing and reenacting, with amendments,

Article – Labor and Employment

Section 5-604

Annotated Code of Maryland

(2016 Replacement Volume and 2020 Supplement)”.

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On page 2, strike in their entirety lines 23 through 33, inclusive; and strike in their entirety lines 35 and 36.

On page 3, strike in their entirety lines 1 through 13, inclusive.

On page 17, strike in their entirety lines 3 through 32, inclusive.

On page 18, strike in their entirety lines 1 through 15, inclusive; and strike beginning with “**THE**” in line 19 down through “**OTHER**” in line 20 and substitute “**ANY**”.

On page 20, strike in their entirety lines 12 through 14, inclusive.

AMENDMENT NO. 3

On page 3, strike beginning with the colon in line 18 down through “**OR**” in line 28.

On page 4, in line 1, strike “**(III)**” and substitute “**A CATASTROPHIC HEALTH EMERGENCY, AS DEFINED UNDER § 14-3A-01 OF THE PUBLIC SAFETY ARTICLE, THAT IS THE SUBJECT OF**”; in line 2, after “**ARTICLE**” insert “**AND IS RELATED TO A COMMUNICABLE DISEASE**”; in line 7, strike “**(1)**”; in the same line, after “**WHO**” insert “**:**”

(1)”;

in line 9, after “**WORKSITE**” insert “**;****AND**

(2) PROVIDES SERVICES THAT THE ESSENTIAL EMPLOYER DETERMINES TO BE ESSENTIAL OR CRITICAL TO ITS OPERATIONS”;

strike in their entirety lines 10 and 11; in line 13, strike “**THE FOLLOWING**”; and in line 14, strike the colon and substitute “**IDENTIFIED BY THE GOVERNOR OR A FEDERAL**

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OR STATE AGENCY AS CRITICAL TO REMAIN IN OPERATION DURING THE EMERGENCY.”.

On pages 4 through 9, strike in their entirety the lines beginning with line 15 on page 4 down through line 22 on page 9, inclusive.

AMENDMENT NO. 4

On page 9, strike in their entirety lines 23 through 27, inclusive.

On page 10, strike in their entirety lines 1 through 18, inclusive, and substitute “3-1603.”; in line 20, strike the colon and substitute “COMPLY WITH APPLICABLE SAFETY STANDARDS ADOPTED BY A FEDERAL OR STATE AGENCY;”; strike in their entirety lines 21 through 23, inclusive; in line 24, after “(2)” insert “SUBJECT TO AVAILABILITY,”; in the same line, strike “PERSONAL PROTECTIVE” and substitute “SAFETY”; in line 25, after “EQUIPMENT” insert “RECOMMENDED FOR USAGE DURING THE EMERGENCY”; in line 26, strike “CREATE AND MAINTAIN” and substitute “ADOPT, MAINTAIN, AND POST”; and strike beginning with “ENFORCE” in line 26 down through “WORKSITE” in line 28 and substitute “ENSURE AN ESSENTIAL WORKER’S ACCESS TO INFORMATION REGARDING THE APPLICABLE SAFETY STANDARDS IN EFFECT DURING THE EMERGENCY”.

On page 11, in line 2, after “REQUIREMENTS” insert “SET BY THE GOVERNOR OR A FEDERAL OR STATE AGENCY”.

On pages 11 through 14, strike in their entirety the lines beginning with line 5 on page 11 down through line 18 on page 14, inclusive, and substitute:

“3-1604.

AN ESSENTIAL WORKER HAS A RIGHT TO REFUSE TO PERFORM AN ASSIGNED TASK AS PROVIDED UNDER § 5-604 OF THIS ARTICLE AND COROLLARY REGULATIONS.

3-1605.

On page 14, in line 20, strike “AN INFECTIOUS DISEASE” and substitute “THE COMMUNICABLE DISEASE THAT IS THE SUBJECT OF THE EMERGENCY”; in line 22, strike the colon; in line 23, strike “(1)”; strike beginning with “EXPOSED;” in line 24 down through “SANITIZED” in line 26 and substitute “EXPOSED”; in line 27, strike “IF” and substitute “(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF”; and in line 28, strike “A CONTAGIOUS ILLNESS OR” and substitute “THE COMMUNICABLE”.

On page 15, in line 1, strike “, DURING” and substitute “THAT IS THE SUBJECT OF THE EMERGENCY, DURING”; strike beginning with “ALL” in line 1 down through “TESTING” in line 2 and substitute “FOR TESTING FOR THE COMMUNICABLE DISEASE.”

(2) AN ESSENTIAL EMPLOYER IS NOT SUBJECT TO THE REQUIREMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION IF AN ESSENTIAL WORKER IS ABLE TO OBTAIN TESTING FREE OF CHARGE.

AMENDMENT NO. 5

On page 15, strike in their entirety lines 20 through 22, inclusive; and in line 23, strike “(3)” and substitute “(2)”.

On page 16, strike line 18 in its entirety and substitute “(3) “PUBLIC HEALTH EMERGENCY LEAVE” MEANS PAID LEAVE THAT AN ESSENTIAL”; strike beginning with “DUE” in line 19 down through “EMERGENCY” in line 21 and substitute

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“AS REQUIRED UNDER SUBSECTION (D) OF THIS SECTION”; strike in their entirety lines 22 through 25, inclusive, and substitute:

“(B) THIS SECTION APPLIES ONLY IF THE FEDERAL OR STATE GOVERNMENT PROVIDES FUNDING THAT CAN BE USED FOR PUBLIC HEALTH EMERGENCY LEAVE.

(C) AN ESSENTIAL EMPLOYER SHALL PROVIDE AN ESSENTIAL WORKER WITH PUBLIC HEALTH EMERGENCY LEAVE ON THE DATE THE FUNDING IS MADE AVAILABLE TO THE ESSENTIAL EMPLOYER.

(D) AN ESSENTIAL EMPLOYER SHALL PROVIDE PAID PUBLIC HEALTH EMERGENCY LEAVE:

(1) IN ADDITION TO ANY OTHER LEAVE OR BENEFIT, INCLUDING EARNED SICK AND SAFE LEAVE UNDER SUBTITLE 13 OF THIS TITLE; AND

(2) IN THE FOLLOWING AMOUNTS:

(I) IF SPECIFIED IN A FEDERAL PROGRAM, ORDER, LAW, OR REGULATION, THE AMOUNT PROVIDED FOR UNDER THE PROGRAM, ORDER, LAW, OR REGULATION; OR

(II) IF NOT SPECIFIED IN A FEDERAL PROGRAM, ORDER, LAW, OR REGULATION:

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

2. FOR PART-TIME ESSENTIAL WORKERS WHO REGULARLY WORK LESS THAN 40 HOURS PER WEEK, AN AMOUNT OF HOURS EQUIVALENT TO THE AVERAGE HOURS WORKED DURING A TYPICAL 4-WEEK WORKING PERIOD;

3. FOR ESSENTIAL WORKERS WHOSE SCHEDULES AND AMOUNT OF HOURS WORKED VARY FROM WEEK TO WEEK, THE AVERAGE NUMBER OF HOURS THAT THE ESSENTIAL WORKER WAS SCHEDULED PER WEEK OVER THE 6-MONTH PERIOD ENDING ON THE DATE ON WHICH THE EMERGENCY IS DECLARED OR PROCLAIMED; OR

4. IF THE ESSENTIAL WORKER DID NOT WORK DURING THE 6-MONTH PERIOD ENDING ON THE DATE ON WHICH THE EMERGENCY IS DECLARED OR PROCLAIMED, THE REASONABLE EXPECTATION OF THE ESSENTIAL WORKER AT THE TIME OF HIRING OR THE AVERAGE NUMBER OF HOURS PER WEEK THAT THE WORKER WOULD NORMALLY BE SCHEDULED TO WORK, WHICHEVER IS GREATER.

(E) EACH ESSENTIAL EMPLOYER SHALL ALLOW AN ESSENTIAL WORKER TO USE PUBLIC HEALTH EMERGENCY LEAVE PROVIDED UNDER SUBSECTION (C) OF THIS SECTION IN RELATION TO AN EMERGENCY:

(1) TO ISOLATE WITHOUT AN ORDER TO DO SO BECAUSE THE ESSENTIAL WORKER:

(I) HAS BEEN DIAGNOSED WITH THE COMMUNICABLE DISEASE THAT IS THE SUBJECT OF THE EMERGENCY; OR

(II) IS EXPERIENCING SYMPTOMS ASSOCIATED WITH THE COMMUNICABLE DISEASE THAT IS THE SUBJECT OF THE EMERGENCY AND IS AWAITING THE RESULTS OF A TEST TO CONFIRM THE DIAGNOSIS;

(2) TO SEEK OR OBTAIN A MEDICAL DIAGNOSIS, PREVENTIVE CARE, OR TREATMENT BECAUSE THE ESSENTIAL WORKER IS DIAGNOSED WITH THE COMMUNICABLE DISEASE THAT IS THE SUBJECT OF THE EMERGENCY;

(3) TO CARE FOR A FAMILY MEMBER WHO IS ISOLATING, WITHOUT AN ORDER TO DO SO, BECAUSE OF A DIAGNOSIS OF THE COMMUNICABLE DISEASE THAT IS THE SUBJECT OF THE EMERGENCY;

(4) DUE TO A DETERMINATION BY A PUBLIC HEALTH OFFICIAL OR HEALTH CARE PROFESSIONAL THAT THE ESSENTIAL WORKER'S PRESENCE AT THE PLACE OF EMPLOYMENT OR IN THE COMMUNITY WOULD JEOPARDIZE THE HEALTH OF OTHER INDIVIDUALS BECAUSE OF THE ESSENTIAL WORKER'S EXPOSURE TO, OR EXHIBITED SYMPTOMS ASSOCIATED WITH, THE COMMUNICABLE DISEASE THAT IS THE SUBJECT OF THE EMERGENCY, REGARDLESS OF WHETHER THE ESSENTIAL WORKER HAS BEEN DIAGNOSED WITH THE COMMUNICABLE DISEASE;

(5) TO CARE FOR A FAMILY MEMBER DUE TO A DETERMINATION BY A PUBLIC HEALTH OFFICIAL OR HEALTH CARE PROFESSIONAL THAT THE FAMILY MEMBER'S PRESENCE AT THE PLACE OF EMPLOYMENT OR IN THE COMMUNITY WOULD JEOPARDIZE THE HEALTH OF OTHERS BECAUSE OF THE FAMILY MEMBER'S EXPOSURE TO, OR EXHIBITED SYMPTOMS ASSOCIATED WITH, THE COMMUNICABLE DISEASE THAT IS THE SUBJECT OF THE EMERGENCY OR DUE TO SYMPTOMS EXHIBITED REGARDLESS OF WHETHER THE FAMILY MEMBER HAS BEEN DIAGNOSED WITH THE COMMUNICABLE DISEASE; OR

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

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

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

in line 26, strike “(C)” and substitute “(F)”; and strike beginning with “ALLOW” in line 27 down through “OR” in line 29 and substitute “**COMPENSATE AN ESSENTIAL WORKER FOR UNUSED PUBLIC HEALTH EMERGENCY LEAVE WHEN THE ESSENTIAL WORKER LEAVES EMPLOYMENT;**

(2) PREEMPT, LIMIT, OR OTHERWISE AFFECT ANY OTHER LAW THAT PROVIDES FOR PUBLIC HEALTH EMERGENCY LEAVE BENEFITS THAT ARE MORE GENEROUS THAN REQUIRED UNDER THIS SECTION;

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

(4) PROHIBIT AN ESSENTIAL EMPLOYER FROM ADOPTING AND ENFORCING A POLICY THAT PROHIBITS THE IMPROPER USE OF PUBLIC HEALTH EMERGENCY LEAVE, INCLUDING PROHIBITING A PATTERN OF ABUSE OF THE LEAVE; OR”.

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On page 17, in line 1, strike “(2)” and substitute “(5)”; in line 2, strike “BEREAVEMENT LEAVE, HEALTH LEAVE,” and substitute “PUBLIC HEALTH EMERGENCY PAID LEAVE”; and after line 2, insert:

“(G) (1) AN ESSENTIAL EMPLOYER MAY REQUIRE AN ESSENTIAL WORKER WHO USES PUBLIC HEALTH EMERGENCY LEAVE TO PROVIDE DOCUMENTATION OF THE NEED TO USE THE PUBLIC HEALTH EMERGENCY LEAVE.

“(2) IF AN ESSENTIAL WORKER FAILS OR REFUSES TO PROVIDE DOCUMENTATION AS REQUIRED BY AN ESSENTIAL EMPLOYER UNDER PARAGRAPH (1) OF THIS SUBSECTION, AN ESSENTIAL EMPLOYER MAY REFUSE TO PAY THE ESSENTIAL WORKER FOR THE PUBLIC HEALTH EMERGENCY LEAVE.

“(3) THE COMMISSIONER SHALL ADOPT REGULATIONS REGARDING THE FORMS OF DOCUMENTATION THAT AN ESSENTIAL EMPLOYER MAY REQUIRE UNDER PARAGRAPH (1) OF THIS SUBSECTION.”.

AMENDMENT NO. 6

On page 18, in line 17, strike “INTENTIONALLY OR UNINTENTIONALLY” and substitute “KNOWINGLY”.

On pages 18 through 20, strike in their entirety the lines beginning with line 22 on page 18 down through line 8 on page 20, inclusive, and substitute:

“3-1608.

“(A) IF AN ESSENTIAL WORKER BELIEVES THAT AN ESSENTIAL EMPLOYER HAS VIOLATED § 3-1604 OF THIS SUBTITLE:

(1) THE ESSENTIAL WORKER MAY SEEK ENFORCEMENT OF RIGHTS UNDER § 5-604 OF THIS ARTICLE; AND

(2) THE COMMISSIONER SHALL RESPOND IN ACCORDANCE WITH THE ENFORCEMENT PROVISIONS UNDER TITLE 5 OF THIS ARTICLE.

(B) (1) IF AN ESSENTIAL WORKER BELIEVES THAT AN ESSENTIAL EMPLOYER HAS VIOLATED § 3-1606 OF THIS SUBTITLE, THE ESSENTIAL WORKER MAY FILE A WRITTEN COMPLAINT WITH THE COMMISSIONER.

(2) 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.

(3) (I) IF THE COMMISSIONER IS UNABLE TO RESOLVE AN ISSUE THROUGH MEDIATION DURING THE PERIOD STATED IN PARAGRAPH (2) OF THIS SUBSECTION AND THE COMMISSIONER DETERMINES THAT AN ESSENTIAL 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 PUBLIC HEALTH EMERGENCY LEAVE AND ANY ACTUAL ECONOMIC DAMAGES;

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

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

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

(5) WITHIN 30 DAYS AFTER THE COMMISSIONER ISSUES AN ORDER, AN EMPLOYER SHALL COMPLY WITH THE ORDER.

(C) IF AN ESSENTIAL WORKER BELIEVES THAT AN ESSENTIAL EMPLOYER HAS VIOLATED ANY OTHER PROVISION OF THIS SUBTITLE:

(1) THE ESSENTIAL WORKER MAY FILE A WRITTEN COMPLAINT WITH THE COMMISSIONER; AND

(2) THE COMMISSIONER SHALL RESPOND IN ACCORDANCE WITH THE ENFORCEMENT PROVISIONS UNDER TITLE 5 OF THIS ARTICLE.”.

On page 20, after line 11, insert:

“5-205.

(P) IN ADDITION TO ANY OTHER AUTHORITY THE COMMISSIONER MAY EXERCISE UNDER THIS TITLE, THE COMMISSIONER SHALL ENFORCE §§ 3-1603, 3-1605, AND 3-1607 OF THIS ARTICLE.

5-604.

(a) (1) An employer or other person may not discharge or otherwise discriminate against an employee on the basis of information gained through participation of the employee in group medical coverage.

(2) This title does not prevent an employer from using medical information that:

(i) has a direct, material, and timely relationship to the capacity or fitness of an employee to perform the job of the employee properly; or

(ii) differs substantially from medical information that the employee falsely provides in an application for employment.

(b) An employer or other person may not discharge or otherwise discriminate against an employee because the employee:

(1) files a complaint under or related to this title;

(2) brings an action under this title or a proceeding under or related to this title or causes the action or proceeding to be brought;

(3) has testified or will testify in an action under this title or a proceeding under or related to this title; [or]

(4) exercises, for the employee or another, a right under this title; OR

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(5) IS AN ESSENTIAL WORKER WHO FILES A COMPLAINT OR EXERCISES A RIGHT UNDER § 3-1604 OF THIS ARTICLE.

(c) (1) (i) Subject to subparagraph (ii) of this paragraph, an employee who believes that an employer or other person has discharged or otherwise discriminated against the employee in violation of subsection (a) or (b) of this section may submit to the Commissioner a written complaint that alleges the discrimination and that includes the signature of the employee.

(ii) The Commissioner shall accept as timely an oral complaint made by the employee under the circumstances described in subparagraph (i) of this paragraph, provided the employee submits a written complaint within 7 business days of the oral complaint and that includes the signature of the employee.

(2) An employee shall file a complaint under this subsection within 30 days after the alleged discrimination occurs.

(d) (1) On receipt of a complaint under subsection (c) of this section, the Commissioner may investigate.

(2) If, after investigation, the Commissioner determines that an employer or other person has violated subsection (a) or (b) of this section, the Commissioner shall file a complaint to enjoin the violation, to reinstate the employee to the former position with back pay, or for other appropriate relief in the circuit court for:

(i) the county in which the alleged violation occurred;

(ii) the county in which the employer has its principal office; or

(iii) Baltimore City.

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(3) Within 90 days after the Commissioner receives a complaint, the Commissioner shall notify the employee of the determination under this subsection.

AMENDMENT NO. 7

On page 11, in line 4, strike “**3-1605.**”.

On page 15, in line 17, strike “**3-1608.**” and substitute “**3-1606.**”.

On page 18, in line 16, strike “**3-1610.**” and substitute “**3-1607.**”.

On page 20, in line 9, strike “**3-1612.**” and substitute “**3-1609.**”; before line 12, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) Within 2 weeks after the effective date of this Act, the Secretary of Labor shall:

(1) if the federal Occupational Safety and Health Administration has issued an applicable Emergency Temporary Standard related to COVID-19, adopt the Emergency Temporary Standard; or

(2) if the federal Occupational Safety and Health Administration has not issued an applicable Emergency Temporary Standard related to COVID-19, adopt a State Emergency Temporary Standard that:

(i) meets or exceeds the guidance provided in “Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace” published on January 29, 2021, by the federal Occupational Safety and Health Administration; and

(ii) complies with subsection (d) of this section.

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(b) The Secretary of Labor shall set an Emergency Temporary Standard adopted under subsection (a) of this section to expire at the earlier of:

(1) the conclusion of the catastrophic health emergency declared by the Governor on March 5, 2020; or

(2) the adoption of a permanent aerosol transmissible disease standard by the federal Occupational Safety and Health Administration and the Secretary of Labor.

(c) If the Secretary of Labor adopts an Emergency Temporary Standard under subsection (a)(1) of this section, the Emergency Temporary Standard shall remain in effect whether or not it becomes the subject of federal litigation.

(d) If the Secretary of Labor adopts an Emergency Temporary Standard under subsection (a)(2) of this section, the Emergency Temporary Standard shall require each employer to:

(1) notify the Maryland Department of Health within 24 hours after the confirmation of a positive case of COVID-19;

(2) notify the Maryland Department of Health within 24 hours after the confirmation of three or more employees at a workplace testing positive for COVID-19 within a 14-day period;

(3) post in a location visible to employees at the work site:

(i) information regarding COVID-19 symptoms;

(ii) protocols for an employee's reaction to experiencing COVID-19 symptoms;

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(iii) the minimum safety standards developed under the regulations; and

(iv) the process for submitting a complaint to Maryland Occupational Safety and Health; and

(4) comply with the prohibitions relating to terminating or discriminating against employees.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) On or before August 1, 2021, the Maryland Department of Health, in consultation with the Maryland Department of Labor and local health departments, shall develop a template health emergency preparedness plan for responding to a catastrophic health emergency as defined under § 14–3A–01 of the Public Safety Article.

(b) The health emergency preparedness plan developed under subsection (a) of this section shall:

(1) be consistent with any applicable federal and State standards;

(2) incorporate input from employers; and

(3) include the following provisions:

(i) a coordinated process for handling complaints related to unsafe working conditions due to a catastrophic health emergency; and

(ii) methods for raising public awareness about the process for filing a complaint about unsafe working conditions due to a catastrophic health emergency.

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(c) In addition to the template health emergency preparedness plan, on or before October 1, 2021, the Maryland Department of Health, in consultation with the Maryland Department of Labor and local health departments, shall report to the General Assembly, in accordance with § 2-1257 of the State Government Article, on recommendations for potential legislation to enhance the agencies' enforcement authority during a catastrophic health emergency.

SECTION 4. AND BE IT FURTHER ENACTED, That, on or before January 1, 2022, Maryland Occupational Safety and Health shall report to the General Assembly, in accordance with § 2-1257 of the State Government Article, on enforcement actions related to COVID-19, including:

- (1) the number of formal and informal complaints received;
- (2) the number of site inspections conducted; and
- (3) information related to any citations issued to employers.

SECTION 5. AND BE IT FURTHER ENACTED, That the Commissioner of Labor and Industry shall adopt the regulations required under this Act, as soon as practicable after the effective date of this Act.

SECTION 6. AND BE IT FURTHER ENACTED, That:

(a) This Act shall be construed to apply only prospectively and may not be applied or interpreted to require an essential employer to pay an essential worker for leave taken before the effective date of this Act.

(b) Due to the declaration of a state of emergency by the Governor related to the COVID-19 pandemic, each essential employer shall provide the public health emergency paid leave required under § 3-1606, as enacted by Section 1 of this Act, to

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each essential worker on the date that federal or State funding for the public health emergency leave is made available to the employer.”;

in line 15, strike “3.” and substitute “7.”; and in line 19, after “enacted.” insert “Sections 2 and 3 of this Act shall remain effective until the date that is 6 months from the date on which the state of emergency declared by the Governor due to the COVID–19 pandemic ends under Title 14 of the Public Safety Article and, at the end of that period, Sections 2 and 3 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.”.