

SENATE BILL 727

K3

EMERGENCY BILL

1lr1983
CF 1lr1686

By: **Senator Feldman**

Introduced and read first time: February 5, 2021

Assigned to: Finance

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Labor and Employment
 2 Section 3–1307 through 3–1308 and 3–1311, respectively
 3 to be Section 3–1308 through 3–1309 and 3–1312, respectively
 4 Annotated Code of Maryland
 5 (2016 Replacement Volume and 2020 Supplement)

6 BY repealing and reenacting, with amendments,
 7 Article – Labor and Employment
 8 Section 3–1301, 3–1303, 3–1304(c), 3–1305(a), 3–1306, 3–1309, and 3–1310
 9 Annotated Code of Maryland
 10 (2016 Replacement Volume and 2020 Supplement)

11 BY adding to
 12 Article – Labor and Employment
 13 Section 3–1306
 14 Annotated Code of Maryland
 15 (2016 Replacement Volume and 2020 Supplement)

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

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

22 Article – Labor and Employment

23 3–1301.

- 24 (a) In this subtitle the following words have the meanings indicated.
- 25 (b) “Abuse” has the meaning stated in § 4–501 of the Family Law Article.
- 26 (c) “Domestic violence” means abuse against an individual eligible for relief.
- 27 (d) “Earned sick and safe leave” means leave away from work that is provided by
 28 an employer under § 3–1304 **OR § 3–1306** of this subtitle.
- 29 (e) “Employee” does not include an individual who:
- 30 (1) performs work under a contract of hire that is determined not to be
 31 covered employment under § 8–205 of this article;
- 32 (2) is not a covered employee under § 9–222 of this article; **OR**
- 33 (3) is under the age of 18 years before the beginning of the year[;];

1 (4) is employed in the agricultural sector on an agricultural operation
2 under § 5-403(a) of the Courts Article;

3 (5) is employed by a temporary services agency to provide temporary
4 staffing services to another person if the temporary services agency does not have
5 day-to-day control over the work assignments and supervision of the individual while the
6 individual is providing the temporary staffing services; or

7 (6) is directly employed by an employment agency to provide part-time or
8 temporary services to another person].

9 (f) "Employer" includes:

10 (1) a unit of State or local government; and

11 (2) a person that acts directly or indirectly in the interest of another
12 employer with an employee.

13 (g) "Family member" means:

14 (1) a biological child, an adopted child, a foster child, or a stepchild of the
15 employee;

16 (2) a child for whom the employee has legal or physical custody or
17 guardianship;

18 (3) a child for whom the employee stands in loco parentis, regardless of the
19 child's age;

20 (4) **A CHILD OF THE EMPLOYEE'S DOMESTIC PARTNER;**

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

23 **[(5)] (6)** the legal guardian or ward of the employee or of the employee's
24 spouse;

25 **[(6)] (7)** an individual who acted as a parent or stood in loco parentis to
26 the employee or the employee's spouse when the employee or the employee's spouse was a
27 minor;

28 **[(7)] (8)** the [spouse of the employee] **INDIVIDUAL WHO IS RECOGNIZED**
29 **AS THE EMPLOYEE'S SPOUSE OR DOMESTIC PARTNER OR AS BEING IN A SIMILAR**
30 **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

1 (3) sexual abuse of a vulnerable adult under § 3–604 of the Criminal Law
2 Article.

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

5 [(l)] (O) Unless the context requires otherwise, “year” means a regular and
6 consecutive 12–month period as determined by the employer.
7 3–1303.

8 (a) This subtitle does not apply to an employee who:

9 (1) regularly works less than 12 hours a week for an employer; **OR**

10 (2) (i) is employed in the construction industry; and

11 (ii) is covered by a bona fide collective bargaining agreement in
12 which the requirements of this subtitle are expressly waived in clear and unambiguous
13 terms[]; or

14 (3) (i) is called to work by the employer on an as–needed basis in a
15 health or human services industry;

16 (ii) can reject or accept the shift offered by the employer;

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

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

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

21 (1) a janitor;

22 (2) a building cleaner;

23 (3) a building security officer;

24 (4) a concierge;

25 (5) a doorman;

26 (6) a handyperson; or

27 (7) a building superintendent.

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

6 (i) accrual and use of sick leave;

7 (ii) grievances; and

8 (iii) disciplinary actions.

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

12 3-1304.

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

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

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

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

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

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

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

23 (ii) 1-week pay period if the employee worked fewer than a combined
24 total of 24 hours in the current and the immediately preceding pay period; or

25 (iii) pay period in which:

26 1. the employee is paid twice a month regardless of the
27 number of weeks in a pay period; and

28 2. the employee worked fewer than 26 hours in the pay
29 period.

30 3-1305.

1 (a) An employer shall allow an employee to use earned sick and safe leave:

2 (1) to care for or treat the employee's mental or physical illness, injury, or
3 condition;

4 (2) to obtain preventive medical care for the employee or employee's family
5 member;

6 (3) to care for a family member with a mental or physical illness, injury, or
7 condition;

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

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

11 **[(5)] (6) if:**

12 (i) the absence from work is necessary due to domestic violence,
13 sexual assault, or stalking committed against the employee or the employee's family
14 member; and

15 (ii) the leave is being used:

16 1. by the employee to obtain for the employee or the
17 employee's family member:

18 A. medical or mental health attention that is related to the
19 domestic violence, sexual assault, or stalking;

20 B. services from a victim services organization related to the
21 domestic violence, sexual assault, or stalking; or

22 C. legal services or proceedings related to or resulting from
23 the domestic violence, sexual assault, or stalking; or

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

26 **3-1306.**

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

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

3 **(II) IN THE FOLLOWING AMOUNTS:**

4 **1. FOR FULL-TIME EMPLOYEES WHO REGULARLY WORK**
5 **40 HOURS OR MORE PER WEEK, 112 HOURS; AND**

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

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

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

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

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

31 **(B) (1) THE EMPLOYER SHALL PROVIDE PAID EARNED SICK AND SAFE**
32 **LEAVE UNDER SUBSECTION (A) OF THIS SECTION TO AN EMPLOYEE REGARDLESS OF**
33 **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 ye 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.