

SENATE BILL 230

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SB 472/16 – FIN

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CF HB 1

By: **Senators Middleton, Astle, Benson, Conway, Currie, Feldman, Ferguson, Guzzone, Kagan, Kasemeyer, King, Lee, Madaleno, Manno, McFadden, Peters, Pinsky, Ramirez, Robinson, Nathan–Pulliam, Rosapepe, Smith, Young, and Zucker**

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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
6 the unit’s laws, regulations, policies, and procedures under certain circumstances;
7 prohibiting an employer from being required to pay a tipped employee more than a
8 certain wage for earned sick and safe leave; providing for the method of determining
9 whether an employer is required to provide paid or unpaid earned sick and safe
10 leave; providing for the manner in which earned sick and safe leave is accrued by the
11 employee and treated by the employer; authorizing an employer, under certain
12 circumstances, to deduct the amount paid for earned sick and safe leave from the
13 wages paid to an employee on the termination of employment under a certain
14 provision of law; prohibiting an employer from being required to pay out on the
15 termination of employment certain earned sick and safe leave; requiring an employer
16 to allow an employee to use earned sick and safe leave for certain purposes;
17 authorizing an employer to require an employee to provide certain notice under
18 certain circumstances; requiring an employee, under certain circumstances, to
19 provide certain notice to the employer; authorizing an employer to deny a request for

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.



1 leave under certain circumstances; prohibiting an employer from requiring that a
2 certain employee search for or find an individual to work in the employee's stead
3 during a certain period of time; authorizing an employee to work additional hours or
4 trade shifts with another employee instead of taking earned sick and safe leave,
5 under certain circumstances; providing that an employee is not required to accept a
6 certain offer; providing that an employer is not required to consent to a certain
7 request under certain circumstances; prohibiting an employer, under certain
8 circumstances, from being required to pay more than a certain rate ~~or allowing an~~
9 ~~employee to work certain hours or shifts~~; prohibiting an employer, under certain
10 circumstances, from deducting a certain absence from a certain employee's earned
11 sick and safe leave; requiring an employer to offer a certain employee employed in
12 the restaurant industry the employee's base rate of pay for the employee's absence,
13 except under certain circumstances; authorizing an employer, in lieu of offering to
14 pay a certain employee the employee's base rate of pay, to offer an additional shift of
15 the same number of hours within a certain time frame; authorizing an employer to
16 deduct accrued earned sick and safe leave for leave taken under certain
17 circumstances; authorizing an employer, under certain circumstances, to require an
18 employee to provide certain verification; requiring an employer to notify the
19 employees that the employees are entitled to certain earned sick and safe leave;
20 specifying the information that must be included in the notice; requiring the
21 Commissioner of Labor and Industry to create and make available a certain poster
22 and notice; requiring the Commissioner to develop a certain model paid sick and safe
23 leave policy for use by certain employers for certain purposes; requiring the
24 Commissioner to provide technical assistance to certain employers under certain
25 circumstances; requiring the Department of Labor, Licensing, and Regulation to post
26 a certain notice and model on a certain Web site in a certain format; requiring an
27 employer to keep certain records for a certain time period; authorizing the
28 Commissioner to inspect certain records; establishing a rebuttable presumption that
29 an employer has violated certain provisions of this Act under certain circumstances;
30 prohibiting an employer from being assessed a certain civil penalty under certain
31 circumstances; providing for the liability of certain payroll service providers under
32 certain circumstances; requiring and authorizing the Commissioner to take certain
33 acts when the Commissioner receives a certain written complaint; specifying the
34 contents that are required to be included and may be included in a certain order
35 issued by the Commissioner; subjecting certain acts to certain hearing and notice
36 requirements; requiring an employer to comply with a certain order within a certain
37 time period; authorizing an employee to bring a civil action in a certain court against
38 an employer for a violation of certain provisions of this Act within a certain time
39 period; ~~requiring~~ authorizing a court to award certain damages, fees, and injunctive
40 relief under certain circumstances; establishing certain prohibited acts; providing for
41 certain criminal penalties; providing that certain protections apply to certain
42 employees; authorizing the Commissioner to adopt regulations to carry out certain
43 provisions of this Act; authorizing the Commissioner to conduct an investigation,
44 under certain circumstances, to determine whether certain provisions of this Act
45 have been violated; requiring the Commissioner, except under certain
46 circumstances, to keep certain information confidential; providing for the
47 construction of certain provisions of this Act; providing that this Act preempts the

1 authority of a local jurisdiction to enact a law on or after a certain date that provides
 2 for certain sick and safe leave provided by certain employers; authorizing certain
 3 jurisdictions to amend certain sick and safe leave laws enacted before a certain date;
 4 providing for the application of this Act; providing for a delayed effective date;
 5 defining certain terms; and generally relating to earned sick and safe leave.

6 BY repealing and reenacting, with amendments,

7 Article – Labor and Employment

8 Section 2–106(b)

9 Annotated Code of Maryland

10 (2016 Replacement Volume)

11 BY adding to

12 Article – Labor and Employment

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

14 13. Healthy Working Families Act”

15 Annotated Code of Maryland

16 (2016 Replacement Volume)

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

18 That the Laws of Maryland read as follows:

19 **Article – Labor and Employment**

20 2–106.

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

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

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

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

27 **[(3)] (4)** Title 4, Subtitle 2, Parts I through III of this article;

28 **[(4)] (5)** Title 5 of this article;

29 **[(5)] (6)** Title 6 of this article; and

30 **[(6)] (7)** Title 7 of this article.

31 3–103.

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

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

8 SUBTITLE 13. HEALTHY WORKING FAMILIES ACT.

9 3-1301.

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

12 (B) "ABUSE" HAS THE MEANING STATED IN § 4-501 OF THE FAMILY LAW
 13 ARTICLE.

14 (C) "DOMESTIC VIOLENCE" MEANS ABUSE AGAINST AN INDIVIDUAL
 15 ELIGIBLE FOR RELIEF.

16 (D) "EARNED SICK AND SAFE LEAVE" MEANS PAID LEAVE AWAY FROM WORK
 17 THAT IS PROVIDED BY AN EMPLOYER UNDER § 3-1304 OF THIS SUBTITLE.

18 (E) "EMPLOYEE" DOES NOT INCLUDE AN INDIVIDUAL WHO:

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

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

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

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

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

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

3 **(F) “EMPLOYER” INCLUDES:**

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

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

7 **(G) “FAMILY MEMBER” MEANS:**

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

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

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

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

16 **(5) THE LEGAL GUARDIAN OF THE EMPLOYEE;**

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

20 **(7) THE SPOUSE OF THE EMPLOYEE;**

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

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

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

27 **(H) “PERSON ELIGIBLE FOR RELIEF” HAS THE MEANING STATED IN § 4-501**
28 **OF THE FAMILY LAW ARTICLE.**

29 **(I) “RESTAURANT” MEANS AN ESTABLISHMENT THAT:**

1 **(1) ACCOMMODATES THE PUBLIC;**

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

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

7 **(J) “SEXUAL ASSAULT” MEANS:**

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

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

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

14 ~~**(J)**~~ **(K) “STALKING” HAS THE MEANING STATED IN § 3-802 OF THE**
15 **CRIMINAL LAW ARTICLE.**

16 ~~**(K)**~~ **(L) UNLESS THE CONTEXT REQUIRES OTHERWISE, “YEAR” MEANS A**
17 **REGULAR AND CONSECUTIVE 12-MONTH PERIOD AS DETERMINED BY THE**
18 **EMPLOYER.**

19 **3-1302.**

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

21 **(1) VACATION DAYS;**

22 **(2) SICK DAYS;**

23 **(3) SHORT-TERM DISABILITY BENEFITS;**

24 **(4) FLOATING HOLIDAYS;**

25 **(5) PARENTAL LEAVE; AND**

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

1 **(B)** THIS SUBTITLE MAY NOT BE CONSTRUED TO:

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

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

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

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

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

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

19 (5) PROHIBIT AN EMPLOYER FROM ADOPTING AND ENFORCING A
20 POLICY THAT LIMITS AN EMPLOYEE TO USING EARNED SICK AND SAFE LEAVE ONLY
21 FOR THE REASONS LISTED IN § 3-1305(A) OF THIS SUBTITLE PROHIBITS THE
22 IMPROPER USE OF EARNED SICK AND SAFE LEAVE, INCLUDING PROHIBITING A
23 PATTERN OF ABUSE OF EARNED SICK AND SAFE LEAVE.

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

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

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

32 ~~(C)~~ (D) (1) THIS EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
33 SUBSECTION, THIS SUBTITLE PREEMPTS THE AUTHORITY OF A LOCAL

1 JURISDICTION TO ENACT A LAW ON OR AFTER JANUARY 1, 2017, THAT REGULATES
2 SICK AND SAFE LEAVE PROVIDED BY AN EMPLOYER OTHER THAN THE LOCAL
3 JURISDICTION.

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

7 3-1303.

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

9 (1) REGULARLY WORKS LESS THAN ~~8~~ 12 HOURS A WEEK FOR AN
10 EMPLOYER; ~~OR~~

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

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

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

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

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

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

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

25 (1) A JANITOR;

26 (2) A BUILDING CLEANER;

27 (3) A BUILDING SECURITY OFFICER;

28 (4) A CONCIERGE;

29 (5) A DOORPERSON;

1 (6) A HANDYPERSON; OR

2 (7) A BUILDING SUPERINTENDENT.

3 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF
 4 A UNIT OF STATE OR LOCAL GOVERNMENT'S SICK LEAVE ACCRUAL AND USE
 5 REQUIREMENTS MEET OR EXCEED THE SICK AND SAFE LEAVE PROVIDED FOR
 6 UNDER THIS SUBTITLE, EMPLOYEES OF THE UNIT OF STATE OR LOCAL
 7 GOVERNMENT WHO ARE PART OF THE UNIT'S PERSONNEL SYSTEM ARE SUBJECT TO
 8 THE UNIT'S LAWS, REGULATIONS, POLICIES, AND PROCEDURES, TO THE EXTENT OF
 9 ANY CONFLICT WITH THE PROVISIONS OF THIS SUBTITLE EXIST, PROVIDING FOR:

10 (I) ACCRUAL AND USE OF SICK LEAVE;

11 (II) GRIEVANCES; AND

12 (III) DISCIPLINARY ACTIONS.

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

17 3-1304.

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

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

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

28 ~~(2)~~ (2) (I) FOR THE PURPOSE OF DETERMINING WHETHER AN
 29 EMPLOYER IS REQUIRED TO PROVIDE PAID OR UNPAID EARNED SICK AND SAFE
 30 LEAVE UNDER THIS SUBSECTION, THE NUMBER OF EMPLOYEES OF AN EMPLOYER
 31 SHALL BE DETERMINED BY CALCULATING THE AVERAGE MONTHLY NUMBER OF
 32 EMPLOYEES EMPLOYED BY THE EMPLOYER DURING THE IMMEDIATELY PRECEDING

1 YEAR.

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

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

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

11 (1) EARN MORE THAN ~~56~~ ~~48~~ 40 HOURS OF EARNED SICK AND SAFE
12 LEAVE IN A YEAR;

13 (2) USE MORE THAN ~~80~~ 72 HOURS OF EARNED SICK AND SAFE LEAVE
14 IN A YEAR;

15 (3) ACCRUE A TOTAL OF MORE THAN ~~80~~ 72 HOURS AT ANY TIME; ~~OR~~

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

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

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

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

25 (III) PAY PERIOD IN WHICH:

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

28 2. THE EMPLOYEE WORKED FEWER THAN 26 HOURS IN
29 THE PAY PERIOD.

30 (D) AT THE BEGINNING OF EACH YEAR, AN EMPLOYER MAY AWARD TO AN

1 EMPLOYEE THE FULL AMOUNT OF EARNED SICK AND SAFE LEAVE THAT AN
2 EMPLOYEE WOULD EARN OVER THE COURSE OF THE YEAR RATHER THAN AWARDING
3 THE LEAVE AS THE LEAVE ACCRUES DURING THE YEAR.

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

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

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

12 (1) JANUARY 1, 2018; OR

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

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

19 (2) AN EMPLOYER MAY NOT BE REQUIRED TO ALLOW AN EMPLOYEE
20 TO CARRY OVER MORE THAN ~~56~~ ~~48~~ 40 HOURS OF EARNED SICK AND SAFE LEAVE
21 UNDER PARAGRAPH (1) OF THIS SUBSECTION.

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

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

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

32 (H) IF AN EMPLOYEE IS REHIRED BY THE EMPLOYER WITHIN ~~9 MONTHS~~ 37
33 WEEKS AFTER LEAVING THE EMPLOYMENT OF THE EMPLOYER, THE EMPLOYER

1 SHALL REINSTATE ANY UNUSED EARNED SICK AND SAFE LEAVE THAT THE
2 EMPLOYEE HAD WHEN THE EMPLOYEE LEFT THE EMPLOYMENT OF THE EMPLOYER
3 UNLESS THE EMPLOYER VOLUNTARILY PAID OUT THE UNUSED EARNED SICK AND
4 SAFE LEAVE ON THE TERMINATION OF EMPLOYMENT.

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

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

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

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

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

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

25 ~~3-1305.~~

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

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

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

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

1 **(4) FOR MATERNITY OR PATERNITY LEAVE; OR**

2 ~~(4)~~ **(5)** IF:

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

6 **(II) THE LEAVE IS BEING USED:**

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

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

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

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

15 **2. DURING THE TIME THAT THE EMPLOYEE HAS**
16 **TEMPORARILY RELOCATED DUE TO THE DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR**
17 **STALKING.**

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

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

24 **(I) PROVIDE NOTICE TO AN EMPLOYER AS SOON AS**
25 **PRACTICABLE; AND**

26 **(II) GENERALLY COMPLY WITH THE EMPLOYER'S NOTICE OR**
27 **PROCEDURAL REQUIREMENTS FOR REQUESTING OR REPORTING OTHER LEAVE, IF**
28 **THOSE REQUIREMENTS DO NOT INTERFERE WITH THE EMPLOYEE'S ABILITY TO USE**
29 **EARNED SICK AND SAFE LEAVE.**

30 **(3) AN EMPLOYER MAY DENY A REQUEST TO TAKE EARNED SICK AND**

1 SAFE LEAVE IF:

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

4 ~~(H)~~ 2. THE EMPLOYEE'S ABSENCE WILL CAUSE A
5 DISRUPTION TO THE EMPLOYER; OR

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

9 2. THE NEED TO USE EARNED SICK AND SAFE LEAVE IS
10 FORESEEABLE;

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

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

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

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

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

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

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

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

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

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

10 1. NEEDS TO TAKE EARNED SICK AND SAFE LEAVE;

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

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

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

19 1. BEING PAID THE MINIMUM WAGE REQUIRED UNDER §
20 3-413 OF THIS TITLE FOR THE EMPLOYEE'S ABSENCE; OR

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

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

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

29 (3) AN EMPLOYER IS NOT REQUIRED TO CONSENT TO AN EMPLOYEE'S
30 REQUEST TO WORK ADDITIONAL HOURS OR TRADE SHIFTS IF THE ADDITIONAL
31 HOURS OR TRADE IN SHIFTS WOULD RESULT IN THE EMPLOYER BEING REQUIRED
32 TO PAY OVERTIME TO THE EMPLOYEE.

1 (E) (1) AN EMPLOYEE MAY TAKE EARNED SICK AND SAFE LEAVE IN THE
 2 SMALLEST INCREMENT THAT THE EMPLOYER'S PAYROLL SYSTEM USES TO ACCOUNT
 3 FOR ABSENCES OR USE OF THE EMPLOYEE'S WORK TIME.

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

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

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

14 (G) (1) AN EMPLOYER MAY REQUIRE AN EMPLOYEE WHO USES EARNED
 15 SICK AND SAFE LEAVE ~~FOR MORE THAN TWO CONSECUTIVE SCHEDULED SHIFTS~~ TO
 16 PROVIDE VERIFICATION THAT THE LEAVE WAS USED APPROPRIATELY UNDER
 17 SUBSECTION (A) OF THIS SECTION IF:

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

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

23 2. THE EMPLOYEE AGREED TO PROVIDE VERIFICATION
 24 UNDER TERMS MUTUALLY AGREED TO BY THE EMPLOYER AND THE EMPLOYEE AT
 25 THE TIME THE EMPLOYEE WAS HIRED BY THE EMPLOYER.

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

30 3-1306.

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

1 (B) THE NOTICE PROVIDED UNDER SUBSECTION (A) OF THIS SECTION
2 SHALL INCLUDE:

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

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

8 (3) A STATEMENT REGARDING THE PROHIBITION:

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

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

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

19 (C) THE COMMISSIONER SHALL:

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

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

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

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

1 **3-1307.**

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

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

4 AND

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

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

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

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

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

22 **3-1308.**

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

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

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

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

3 1. SHALL DESCRIBE THE VIOLATION;

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

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

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

13 (3) THE ACTIONS TAKEN UNDER PARAGRAPHS (1) AND (2) OF THIS
14 SUBSECTION ARE SUBJECT TO THE HEARING AND NOTICE REQUIREMENTS OF TITLE
15 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

16 (C) (1) WITHIN 30 DAYS AFTER THE COMMISSIONER ISSUES AN ORDER,
17 AN EMPLOYER SHALL COMPLY WITH THE ORDER.

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

20 (I) THE COMMISSIONER MAY:

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

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

26 (II) WITHIN 3 YEARS AFTER THE DATE OF THE ORDER, AN
27 EMPLOYEE MAY BRING A CIVIL ACTION TO ENFORCE THE ORDER IN THE COUNTY
28 WHERE THE EMPLOYER IS LOCATED.

29 (3) IF AN EMPLOYEE PREVAILS IN AN ACTION BROUGHT UNDER
30 PARAGRAPH (2)(II) OF THIS SUBSECTION TO ENFORCE AN ORDER, THE COURT
31 ~~SHALL~~ MAY AWARD:

1 **(I) THREE TIMES THE VALUE OF THE EMPLOYEE'S UNPAID**
2 **EARNED SICK AND SAFE LEAVE;**

3 **(II) PUNITIVE DAMAGES IN AN AMOUNT TO BE DETERMINED BY**
4 **THE COURT;**

5 **(III) REASONABLE COUNSEL FEES AND OTHER COSTS;**

6 **(IV) INJUNCTIVE RELIEF, IF APPROPRIATE; AND**

7 **(V) ANY OTHER RELIEF THAT THE COURT DEEMS**
8 **APPROPRIATE.**

9 **3-1309.**

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

11 **(1) DISCHARGE;**

12 **(2) DEMOTION;**

13 **(3) THREATENING THE EMPLOYEE WITH DISCHARGE OR DEMOTION;**

14 **AND**

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

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

20 **(C) AN EMPLOYER MAY NOT:**

21 **(1) TAKE ADVERSE ACTION OR DISCRIMINATE AGAINST AN EMPLOYEE**
22 **BECAUSE THE EMPLOYEE EXERCISES IN GOOD FAITH THE RIGHTS PROTECTED**
23 **UNDER THIS SUBTITLE;**

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

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

29 **(D) THE PROTECTIONS AFFORDED UNDER THIS SUBTITLE SHALL APPLY TO**

1 AN EMPLOYEE WHO MISTAKENLY, BUT IN GOOD FAITH, ALLEGES A VIOLATION OF
2 THIS SUBTITLE.

3 **3-1310.**

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

5 (1) FILE A COMPLAINT WITH THE COMMISSIONER ALLEGING A
6 VIOLATION OF THIS SUBTITLE;

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

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

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

11 **3-1311.**

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

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
15 apply only prospectively and may not be applied or interpreted to have any effect on or
16 application to any bona fide collective bargaining agreement entered into before June 1,
17 2017, for the duration of the contract term, excluding any extensions, options to extend, or
18 renewals of the term of the original agreement.

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

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