



NEWS RELEASE

FOR IMMEDIATE RELEASE
2021 LEGISLATIVE SESSION

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Prince George's County Young Democrats

Prince George's County, MD - The leadership of the Prince George's County Young Democrats Legislative Committee have provided the following amendments to:

- **HB581- Labor and Employment – Employment Standards During an Emergency (Maryland Essential Workers' Protection Act)**
- *Sponsored by Economic Matters Chair, Delegate Dereck E. Davis (D25)*
- **Amendments for Consideration**
 - This legislation will also designate employees in youth services & education, such as employees of local school districts, daycare providers, tutoring services/companies, youth service companies, private schools & universities, and the Maryland State Department of Education, as essential workers.
 - This legislation will set the fines applied to businesses that violate health protocols at no less than 120% of the value of employees' wages and benefits.
 - This legislation will advance the implementation of the \$15 minimum wage for businesses with more than 50 essential workers to the time of this bill's passage, and retroactive to the declaration of the State of Emergency, including for workers who are no longer with their former employer. This retroactive pay will not inhibit the ability of workers to qualify for state benefits.
 - This legislation will require that the rights and privileges extended to essential workers under this legislation will be included in hiring documentation that must be signed by both the hiring employer and said essential worker; in the worker training; and available on site in English and any other predominant language in the workplace with translation services available upon request.
 - 80% of the fine revenues generated by this legislation will be earmarked for the Maryland Emergency Medical Systems Operations Fund.

“The members of PGCYD remain committed to amplifying their voices on potential policy decisions that could impact their communities and daily life. We look forward to working with our elected leaders to ensure that Maryland's essential workforce receives the compensation and benefits they deserve for risking their lives to protect all of us, Chair Phylicia Henry said.

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Written By:

Phylicia Henry, *Chair of Legislative Affairs as a Whole.*

Janna Parker, *Chair of County Affairs.*

Hugo E. Cantu, *Vice Chair of County Affairs.*

Richard DeShay Elliott, *Chair of State Affairs.*

Interested members of the general public are encouraged to engage the Prince George's County Young Democrats, regardless of geographic location, as long as they meet two criteria: they are registered Democrats or Independents, and they are below the age of 40.

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1 worker's eligibility for State means-tested benefit programs; prohibiting an essential
2 employer from misclassifying an essential worker; specifying that money collected from certain fines be
3 distributed to certain funds; defining certain terms; providing
4 for the application of this Act; making this Act an emergency measure, and generally
relating to employment standards during an emergency.

5 BY repealing and reenacting, with amendments,
6 Article - Insurance
7 Section 31-108(b)(6)
8 Annotated Code of Maryland
9 (2017 Replacement Volume and 2020 Supplement)

10 BY repealing and reenacting, with amendments,
11 Article - Labor and Employment
12 Section 3-504
13 Annotated Code of Maryland
14 (2016 Replacement Volume and 2020 Supplement)

15 BY adding to
16 Article - Labor and Employment
17 Section 3-1601 through 3-1612 to be the new subtitle "Subtitle 16. Maryland
18 Essential Workers' Protection Act"
19 Annotated Code of Maryland
20 (2016 Replacement Volume and 2020 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
22 That the Laws of Maryland read as follows:

23 **Article - Insurance**

24 31-108.

25 (b) In compliance with § 1311(d)(4) of the Affordable Care Act, the Exchange
26 shall:

27 (6) provide for initial, annual, and special enrollment periods, in
28 accordance with guidelines adopted by the Secretary under § 1311(c)(6) of the Affordable
29 Care Act, **INCLUDING A SPECIAL ENROLLMENT PERIOD DURING AN EMERGENCY, AS**
30 **DEFINED UNDER § 3-1601 OF THE LABOR AND EMPLOYMENT ARTICLE, FOR AN**
31 **ESSENTIAL WORKER, AS DEFINED IN § 3-1601 OF THE LABOR AND EMPLOYMENT**
32 **ARTICLE, WHO IS NOT INSURED UNDER A GROUP HEALTH BENEFIT PLAN**
33 **SPONSORED BY THE EMPLOYER;**

34 **Article - Labor and Employment**

35 3-504.

36 (a) An employer shall give to each employee:

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1 (1) at the time of hiring, notice of:

2 (i) the rate of pay of the employee;

3 (ii) the regular paydays that the employer sets; and

4 (iii) leave benefits;

5 (2) for each pay period[.]:

6 (i) a statement of the gross earnings of the employee and deductions
7 from those gross earnings; and

8 (ii) IF APPLICABLE, A WRITTEN STATEMENT OF ~~HAZARD-PAY~~ INCREASED WAGES
9 EARNED UNDER SUBTITLE 16 OF THIS TITLE; AND

10 (3) at least 1 pay period in advance, notice of any change in a payday or
11 wage.

12 (b) This section does not prohibit an employer from increasing a wage without
13 advance notice.

14 **SUBTITLE 16. MARYLAND ESSENTIAL WORKERS' PROTECTION ACT.**

15 **3-1601.**

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

18 (B) "EMERGENCY" MEANS:

19 (1) THE IMMINENT THREAT OR OCCURRENCE OF SEVERE OR
20 WIDESPREAD LOSS OF LIFE, INJURY, OR OTHER HEALTH IMPACTS, PROPERTY
21 DAMAGE OR DESTRUCTION, SOCIAL OR ECONOMIC DISRUPTION, OR
22 ENVIRONMENTAL DEGRADATION FROM NATURAL, TECHNOLOGICAL, OR
23 HUMAN-MADE CAUSES; OR

24 (2) AN INCIDENT, OCCURRENCE, OR OUTBREAK THAT IS THE SUBJECT
25 OF:

26 (i) AN EXECUTIVE ORDER;

27 (ii) AN EXECUTIVE DECLARATION UNDER § 14-107 OF THE
28 PUBLIC SAFETY ARTICLE; OR

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1 (III) AN EXECUTIVE PROCLAMATION UNDER § 14-3A-02 OF THE
2 PUBLIC SAFETY ARTICLE.

3 (C) (1) "ESSENTIAL EMPLOYER" MEANS A PERSON THAT EMPLOYS AN
4 ESSENTIAL WORKER.

5 (2) "ESSENTIAL EMPLOYER" INCLUDES A UNIT OF STATE OR LOCAL
6 GOVERNMENT.

7 (D) (1) "ESSENTIAL WORKER" MEANS AN INDIVIDUAL WHO PERFORMS A
8 DUTY OR WORK RESPONSIBILITY DURING AN EMERGENCY THAT CANNOT BE
9 PERFORMED REMOTELY OR IS REQUIRED TO BE COMPLETED AT THE WORKSITE.

10 (2) "ESSENTIAL WORKER" INCLUDES :
11 (i) A CONTRACTOR OR
11 SUBCONTRACTOR ; AND

(ii) EDUCATION AND YOUTH SERVICES WORKERS AND DAYCARE
PROVIDERS.

12 3-1602.

13 THIS SUBTITLE APPLIES ONLY TO ESSENTIAL EMPLOYERS IN THE FOLLOWING
14 INDUSTRIES AND SECTORS:

15 (1) THE CHEMICAL SECTOR, INCLUDING CHEMICAL
16 MANUFACTURERS, PHARMACEUTICAL MANUFACTURERS, AND DISTRIBUTORS OF
17 CHEMICALS AND PHARMACEUTICALS;

18 (2) THE COMMERCIAL SECTOR, INCLUDING:

19 (i) ARBORISTS;

20 (ii) AUTOMOBILE SALES AND SERVICES;

21 (iii) COMMERCIAL AND RESIDENTIAL CONSTRUCTION
22 COMPANIES;

23 (iv) COMPANIES THAT SELL SUPPLIES AND MATERIALS FOR THE
24 MAINTENANCE OF COMMERCIAL AND RESIDENTIAL BUSINESSES, INCLUDING HOME
25 IMPROVEMENT SUPPLY STORES;

26 (v) ENVIRONMENTAL SERVICES COMPANIES;

27 (vi) EXTERMINATORS;

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1 (VII) JANITORIAL FIRMS;

2 (VIII) LANDSCAPERS;

3 (IX) LAUNDROMATS, DRY CLEANERS, AND LAUNDRY SERVICE
4 COMPANIES;

5 (X) LODGING, BUILDING, AND PROPERTY MAINTENANCE
6 COMPANIES;

7 (XI) PLUMBERS, ELECTRICIANS, AND HEATING, VENTILATION,
8 AIR CONDITIONING, AND REFRIGERATION CONTRACTORS AND THE DISTRIBUTORS
9 OF SUPPLIES THAT SUPPORT THOSE PROFESSIONS;

10 (XII) ROOFERS; AND

11 (XIII) SELF-STORAGE FACILITIES;

12 (3) THE COMMUNICATIONS SECTOR, INCLUDING:

13 (I) BROADCASTING COMPANIES AND STATIONS;

14 (II) CABLE TELEVISION COMPANIES;

15 (III) CELLULAR AND LANDLINE TELEPHONE COMPANIES; AND

16 (IV) INTERNET SERVICE PROVIDERS;

17 (4) THE CRITICAL MANUFACTURING SECTOR, INCLUDING:

18 (i) MANUFACTURERS OF:

19 1. CLEANING AND SANITATION EQUIPMENT AND
20 SUPPLIES;

21 2. ENGINES, MOTORS, TURBINES, GENERATORS, AND
22 POWER TRANSMISSION EQUIPMENT;

23 3. LAND, AIR, AND WATER VEHICLES AND RELATED
24 PARTS;

25 4. MEDICAL EQUIPMENT;

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1 **5. PARTS FOR WATER, ELECTRIC, AND**
2 **TELECOMMUNICATIONS UTILITY INFRASTRUCTURE;**

3 **6. PERSONAL PROTECTIVE EQUIPMENT; AND**

4 **7. STEEL, IRON, AND ALUMINUM PRODUCTS;**

5 **(II) COMPANIES THAT RESEARCH, DEVELOP, MANUFACTURE,**
6 **OR INTEGRATE WEAPONS, DEFENSE, OR INTELLIGENCE SYSTEMS OR ASSETS;**

7 **(III) THE DEFENSE INDUSTRIAL BASE SECTOR; AND**

8 **(IV) PRIVATE CONTRACTORS THAT SUPPORT DEFENSE AND**
9 **INTELLIGENCE AGENCIES;**

10 **(5) THE EDUCATION SECTOR, INCLUDING:**

(i) DAYCARE PROVIDERS;

(ii) LOCAL PUBLIC SCHOOL DISTRICTS;

(iii) THE MARYLAND STATE DEPARTMENT OF EDUCATION;

(iv) PRIVATE SCHOOLS AND UNIVERSITIES;

(v) TUTORING SERVICES OR COMPANIES; AND

(vi) YOUTH SERVICES COMPANIES;

(6) THE EMERGENCY SERVICES SECTOR, INCLUDING:

11 **(i) CORRECTIONAL INSTITUTIONS;**

12 **(ii) EMERGENCY MANAGEMENT;**

13 **(iii) EMERGENCY MEDICAL SERVICES;**

14 **(iv) FIRE AND RESCUE SERVICES;**

15 **(v) LAW ENFORCEMENT; AND**

16 **(vi) PRIVATE AMBULANCE COMPANIES;**

17 ~~(6)~~ **(7) THE ENERGY SECTOR, INCLUDING:**

18 **(i) COMPANIES ENGAGED IN THE GENERATION OF**
19 **ELECTRICITY, EXCLUDING HYDROELECTRIC ENERGY COMPANIES AND NUCLEAR**
20 **ENERGY COMPANIES;**

21 **(ii) COMPANIES ENGAGED IN THE PRODUCTION, REFINING,**
22 **STORAGE, TRANSPORTATION, DISTRIBUTION, OR SALE OF OIL, GAS, AND PROPANE**
23 **PRODUCTS, INCLUDING GAS STATIONS AND TRUCK STOPS; AND**

24 **(iii) COMPANIES THAT PROVIDE UTILITY MAINTENANCE**
25 **SERVICES;**

26 ~~(7)~~ **(8) THE FOOD AND AGRICULTURE SECTOR, INCLUDING:**

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1 (I) ALCOHOLIC BEVERAGES RETAILERS AND DISTRIBUTORS,
2 BREWERIES, DISTILLERIES, AND WINERIES;

3 (II) COMPANIES THAT MANUFACTURE OR SUPPORT THE
4 MANUFACTURE OF PAPER PRODUCTS;

5 (III) CONVENIENCE STORES;

6 (IV) FARMS;

7 (V) FARMER'S MARKETS;

8 (VI) GROCERY STORES;

9 (VII) INSTITUTIONAL FOOD SERVICE AND SUPPLY COMPANIES;

10 (VIII) FOOD MANUFACTURERS AND PROCESSORS;

11 (IX) PET SUPPLY STORES; AND

12 (X) VETERINARY HOSPITALS, CLINICS, AND KENNELS;

13 ~~(8)~~ (9) THE GOVERNMENT FACILITIES SECTOR, INCLUDING:

14 (i) BAIL BONDSMEN;

15 (ii) COURT REPORTERS; AND

16 (iii) LAWYERS AND LAW FIRMS;

17 ~~(9)~~ (10) THE HEALTH CARE AND PUBLIC HEALTH SECTOR, INCLUDING:

18 (i) BEHAVIORAL HEALTH FACILITIES AND PROFESSIONALS,
19 INCLUDING PSYCHOLOGISTS, MENTAL HEALTH COUNSELORS, AND SUBSTANCE
20 ABUSE COUNSELORS;

21 (ii) DIAGNOSTIC FACILITIES, INCLUDING RADIOLOGY,
22 IMAGING, AND LABORATORY FACILITIES;

23 (iii) FUNERAL HOMES AND CREMATORIUMS;

24 (iv) HEALTH CARE SYSTEMS AND CLINICS;

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1 (v) HEALTH INSURANCE CARRIERS, PAYORS, AND BILLING
2 COMPANIES;

3 (vi) HOME HEALTH CARE COMPANIES;

4 (vii) HOSPITALS;

5 (viii) MANUFACTURERS AND DISTRIBUTORS OF MEDICAL
6 EQUIPMENT AND SUPPLIES;

7 (ix) MEDICAL CANNABIS GROWERS, PROCESSORS, AND
8 DISPENSARIES;

9 (x) OFFICES OF HEALTH CARE PROVIDERS, INCLUDING
10 PHYSICIANS AND DENTISTS;

11 (xi) PHARMACIES AND PHARMACISTS;

12 (xii) OCCUPATIONAL THERAPISTS, PHYSICAL THERAPISTS, AND
13 SPEECH THERAPISTS;

14 (xiii) REHABILITATION FACILITIES; AND

15 (xiv) SENIOR LIVING FACILITIES, INCLUDING INDEPENDENT
16 LIVING, ASSISTED LIVING, AND SKILLED NURSING;

17 ~~(10)~~ (11) THE INFORMATION TECHNOLOGY SECTOR, INCLUDING:

18 (i) COMPANIES THAT DESIGN, DEVELOP, DISTRIBUTE, HOST,
19 SELL, AND SUPPORT INFORMATION TECHNOLOGY SOFTWARE AND HARDWARE; AND

20 (ii) COMPANIES THAT PROVIDE NETWORK ROUTING, ACCESS,
21 AND CONFIGURATION SERVICES;

22 ~~(11)~~ (12) THE MOTOR CARRIER INDUSTRY, INCLUDING:

23 (i) CARRIERS OF MARINE FREIGHT, INCLUDING OCEAN
24 CARRIERS AND INLAND CARRIERS;

25 (ii) COURIER, PACKAGE DELIVERY, MAIL SERVICE, AND MAIL
26 MANAGEMENT COMPANIES;

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1 (III) MARINE, RAIL, TRUCK, AND INTERMODAL TERMINALS AND
2 OPERATORS; AND

3 (IV) STEVEDORES, LONGSHOREMEN, BAGGAGE HANDLERS, AND
4 OTHERS WHO HANDLE CARGO AT TRANSPORTATION HUBS;

5 ~~(12)~~ (13) THE SERVICE SECTOR, INCLUDING CHILDCARE PROVIDERS AND
6 STAFF, ELDER CARE PROVIDERS AND STAFF, AND PERSONAL SERVICES PROVIDERS;

7 ~~(13)~~ (14) THE TRANSPORTATION SYSTEMS SECTOR, INCLUDING:

8 (I) AIRLINES AND OPERATORS OF MANNED AND UNMANNED
9 COMMERCIAL AIRCRAFT, AIRPORTS, AIR STRIPS, HELIPORTS, AND SEAPLANE
10 BASES; AND

11 (II) RAILROADS;

12 ~~(14)~~ (15) THE WAREHOUSING AND DISTRIBUTION SECTOR, INCLUDING:

13 (i) COMPANIES THAT SUPPLY PARTS OR PROVIDE
14 MAINTENANCE AND REPAIR SERVICES FOR TRANSPORTATION ASSETS AND
15 INFRASTRUCTURE, INCLUDING AIRCRAFT, MARINE VESSELS, LOCOMOTIVES, RAIL
16 CARS, TRUCKS, BUSES, CARS, HEAVY EQUIPMENT, ROADS, BRIDGES, AND TUNNELS;

17 (ii) LESSORS OF TRANSPORTATION ASSETS, INCLUDING
18 RAILCARS AND TRUCK TRAILERS; AND

19 (iii) PIPELINE OWNERS, OPERATORS, AND MAINTENANCE
20 COMPANIES; AND

21 ~~(15)~~ (16) PERSONNEL OF ANY OTHER INSTITUTION OR INDUSTRY ORDERED
22 TO REMAIN OPEN DURING THE EMERGENCY.

23 3-1603.

24 (A) IN THIS SECTION, "AGENCY" MEANS:

25 (1) A LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT, AS
26 DEFINED IN § 14-101.1 OF THE PUBLIC SAFETY ARTICLE; OR

27 (2) THE MARYLAND EMERGENCY MANAGEMENT AGENCY.

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1 **(B) EACH AGENCY SHALL PERIODICALLY EVALUATE AND DETERMINE**
2 **WHETHER AN EMERGENCY IS OCCURRING OR HAS OCCURRED.**

3 **(C) (1) IF AN AGENCY DETERMINES THAT AN EMERGENCY IS OCCURRING**
4 **OR HAS OCCURRED, THE AGENCY SHALL ANNOUNCE PUBLICLY IN WRITING THAT**
5 **THE EMERGENCY IS OCCURRING OR HAS OCCURRED AND THAT ESSENTIAL**
6 **EMPLOYERS ARE REQUIRED TO COMPLY WITH §§ 3-1605, 3-1608, AND 3-1609 OF**
7 **THIS SUBTITLE.**

8 **(2) ONCE THE EMERGENCY HAS SUBSIDED, THE AGENCY THAT MADE**
9 **THE ANNOUNCEMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL**
10 **ANNOUNCE PUBLICLY IN WRITING THAT ESSENTIAL EMPLOYERS NO LONGER NEED**
11 **TO:**

12 **(I) ALLOW AN ESSENTIAL WORKER TO REFUSE TO FULFILL**
13 **WORK RESPONSIBILITIES UNDER § 3-1605 OF THIS SUBTITLE;**

14 **(II) PROVIDE HEALTH LEAVE OR BEREAVEMENT LEAVE UNDER**
15 **§ 3-1608 OF THIS SUBTITLE; OR**

16 **(III) PROVIDE ASSISTANCE WITH HEALTH INSURANCE COSTS**
17 **UNDER § 3-1609 OF THIS SUBTITLE.**

18 **3-1604.**

19 **DURING AN EMERGENCY, EACH ESSENTIAL EMPLOYER SHALL:**

20 **(1) PROVIDE WORKING CONDITIONS THAT:**

21 **(I) REDUCE PHYSICAL HARM AND MENTAL DISTRESS AND**
22 **DETIMENT; AND**

23 **(II) ENSURE PHYSICAL HEALTH AND SAFETY;**

24 **(2) PROVIDE NECESSARY AMOUNTS OF PERSONAL PROTECTIVE**
25 **EQUIPMENT AT NO COST TO ESSENTIAL WORKERS;**

26 **(3) CREATE AND MAINTAIN WRITTEN PROTOCOLS TO ENFORCE ANY**
27 **NECESSARY HYGIENIC PRACTICES OR DISEASE MITIGATION MEASURES AT A**
28 **WORKSITE; AND**

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1 **(4) PROVIDE OR IMPLEMENT ANY OTHER MEASURES OR**
2 **REQUIREMENTS TO ENSURE THE GENERAL HEALTH AND SAFETY OF ESSENTIAL**
3 **WORKERS.**

4 **3-1605.**

5 **(A) (1) IN THIS SECTION, "UNSAFE WORK ENVIRONMENT" MEANS ANY**
6 **CIRCUMSTANCE PRESENT AT A WORKSITE THAT RENDERS AN ESSENTIAL WORKER**
7 **UNABLE TO PERFORM REQUIRED DAILY DUTIES BECAUSE THE PHYSICAL CONDITION**
8 **OF THE WORKSITE REPRESENTS A REASONABLE THREAT TO A WORKER'S HEALTH**
9 **OR SAFETY.**

10 **(2) "UNSAFE WORK ENVIRONMENT" INCLUDES:**

11 **(I) UNSANITARY CONDITIONS IN THE WORKPLACE;**

12 **(II) AN ESSENTIAL EMPLOYER'S FAILURE TO PROVIDE**
13 **PERSONAL PROTECTIVE EQUIPMENT;**

14 **(III) LACK OF EMPLOYER ADHERENCE TO FEDERAL AND STATE**
15 **HEALTH AND SAFETY STANDARDS RELATED TO THE EMERGENCY;**

16 **(IV) AN ESSENTIAL EMPLOYER'S FAILURE TO DEVELOP AND**
17 **ENFORCE HEALTH AND SAFETY PROTOCOLS RELATED TO THE EMERGENCY; AND**

18 **(V) AN ESSENTIAL EMPLOYER'S FAILURE TO NOTIFY WORKERS**
19 **OF ILLNESSES, BROKEN OR IMPROPERLY FUNCTIONING EQUIPMENT, OR ANY OTHER**
20 **DANGEROUS OR HAZARDOUS CONDITIONS WHICH REPRESENT A REASONABLE**
21 **THREAT TO THE ESSENTIAL WORKER'S HEALTH OR SAFETY.**

22 **(B) SUBJECT TO THE REQUIREMENTS SET FORTH IN SUBSECTION (D) OF**
23 **THIS SECTION, IF AN ESSENTIAL WORKER FEARS FOR THE ESSENTIAL WORKER'S**
24 **LIFE OR HEALTH DURING AN EMERGENCY DUE TO THE NATURE OF THE WORK BEING**
25 **PERFORMED, AN ESSENTIAL WORKER MAY REFUSE TO FULFILL A RESPONSIBILITY**
26 **THAT:**

27 **(1) IS REQUIRED OR ENCOURAGED BY AN ESSENTIAL EMPLOYER; AND**

28 **(2) RELATES TO AN UNSAFE WORK ENVIRONMENT.**

29 **(C) AN ESSENTIAL EMPLOYER MAY NOT RETALIATE AGAINST AN ESSENTIAL**
30 **WORKER OR ANY OTHER WORKER IN THE FORM OF DISCHARGE, DISCIPLINARY**
31 **ACTION, OR OTHER ADVERSE ACTION FOR:**

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1 (1) WITNESSING A CONDITION CAUSING AN UNSAFE WORK
2 ENVIRONMENT;

3 (2) NOTIFYING THE ESSENTIAL EMPLOYER OR A GOVERNMENTAL
4 ENTITY OF THE UNSAFE WORK ENVIRONMENT; OR

5 (3) FILING A FORMAL OR INFORMAL COMPLAINT.

6 (D) (1) IN ORDER TO BE PROTECTED UNDER SUBSECTION (C) OF THIS
7 SECTION, AN ESSENTIAL WORKER SHALL PROMPTLY NOTIFY THE COMMISSIONER IN
8 WRITING WITHIN 3 DAYS AFTER THE DATE ON WHICH THE ESSENTIAL WORKER
9 BECAME AWARE OF THE CONDITION CAUSING AN UNSAFE WORK ENVIRONMENT.

10 (2) THE COMMISSIONER SHALL:

11 (i) PROMPTLY NOTIFY THE ESSENTIAL EMPLOYER OF THE
12 CONTENT OF THE WRITTEN COMPLAINT; AND

13 (ii) IN ITS DISCRETION, SET FORTH REQUIREMENTS THAT THE
14 ESSENTIAL EMPLOYER SHALL MEET TO EFFECTIVELY AND IMMEDIATELY REMEDY
15 THE UNSAFE WORK ENVIRONMENT.

16 (3) (i) IF AN ESSENTIAL EMPLOYER DOES NOT REMEDY THE
17 CONDITION CAUSING THE UNSAFE WORK ENVIRONMENT, THE COMMISSIONER
18 SHALL ASSESS A CIVIL PENALTY OF NOT MORE THAN \$50 FOR EACH DAY THAT THE
19 CONDITION CAUSING THE UNSAFE WORK ENVIRONMENT IS NOT REMEDIED.

20 (ii) THE AMOUNT OF A PENALTY ASSESSED UNDER
21 SUBPARAGRAPH (i) OF THIS PARAGRAPH MAY NOT EXCEED \$1,000 PER
22 OCCURRENCE.

23 (iii) IF THE COMMISSIONER DETERMINES THAT AN EMPLOYER
24 HAS VIOLATED THE PROVISIONS OF THIS SECTION, THE COMMISSIONER:

25 1. SHALL ISSUE AN ORDER COMPELLING COMPLIANCE;
26 AND

27 2. MAY, IN THE COMMISSIONER'S DISCRETION, ASSESS A
28 PENALTY OF UP TO \$1,000 FOR EACH APPLICANT FOR EMPLOYMENT FOR WHOM THE
29 EMPLOYER WAS NOT IN COMPLIANCE.

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13
1 (iv) IN DETERMINING THE AMOUNT OF THE PENALTY, THE
2 COMMISSIONER SHALL CONSIDER:

- 3 1. THE GRAVITY OF THE VIOLATION;
- 4 2. THE SIZE OF THE EMPLOYER'S BUSINESS;
- 5 3. THE EMPLOYER'S GOOD FAITH; AND
- 6 4. THE EMPLOYER'S HISTORY OF VIOLATIONS UNDER
7 THE SECTION.

8 (4) IF THE COMMISSIONER ASSESSES A PENALTY UNDER PARAGRAPH
9 (3)(ii) OF THIS SUBSECTION, THE PENALTY SHALL BE SUBJECT TO THE NOTICE AND
10 HEARING REQUIREMENTS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT
11 ARTICLE.

12 (5) THE COMMISSIONER SHALL ADOPT REGULATIONS TO CARRY OUT
13 THIS SUBSECTION.

14 (E) IN ADDITION TO THE REQUIREMENTS OF THIS SUBTITLE, AN ESSENTIAL
15 EMPLOYER SHALL COMPLY WITH ANY STANDARDS, PROTOCOLS, OR PROCEDURES
16 THAT THE COMMISSIONER REQUIRES, INCLUDING ANY EMERGENCY OR TEMPORARY
17 STANDARD.

18 3-1606.

19 (A) EACH ESSENTIAL EMPLOYER SHALL:

20 (1) PREPARE A HEALTH EMERGENCY PREPAREDNESS PLAN FOR
21 RESPONDING TO A CATASTROPHIC HEALTH EMERGENCY AS DEFINED UNDER §
22 14-3A-01 OF THE PUBLIC SAFETY ARTICLE; AND

23 (2) ANNUALLY REVIEW THE HEALTH EMERGENCY PREPAREDNESS
24 PLAN AND SUBMIT ANY CHANGES TO THE DIRECTOR OF THE MARYLAND
25 EMERGENCY MANAGEMENT AGENCY.

26 (B) THE HEALTH EMERGENCY PREPAREDNESS PLAN REQUIRED UNDER
27 SUBSECTION (A) OF THIS SECTION SHALL CONTAIN THE FOLLOWING PROVISIONS:

28 (1) STEPS AN ESSENTIAL WORKER MAY TAKE IF AN ESSENTIAL
29 EMPLOYER ENGAGES IN RETALIATION OR OTHER UNLAWFUL EMPLOYMENT
30 PRACTICES;

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1 (2) PROCEDURES THAT GOVERN THE USE AND MAINTENANCE OF
2 PERSONAL PROTECTIVE EQUIPMENT;

3 (3) WORK HOURS AND SHIFTS THAT WOULD TAKE EFFECT DURING
4 THE CATASTROPHIC HEALTH EMERGENCY;

5 (4) SANITATION PROCEDURES;

6 (5) TELEWORKING CAPABILITIES, IF APPLICABLE;

7 (6) ANY CHANGES IN PAY AND BENEFITS; AND

8 (7) MECHANISMS FOR NOTIFYING ESSENTIAL WORKERS OF POSITIVE
9 TEST RESULTS FOR ILLNESS.

10 (c) EACH ESSENTIAL EMPLOYER SHALL:

11 (1) INCLUDE A WRITTEN COPY OF THE MOST RECENT HEALTH EMERGENCY PREPAREDNESS PLAN IN EACH
ESSENTIAL WORKER'S HIRING DOCUMENTATION;

(2) DISPLAY THE MOST RECENT HEALTH EMERGENCY
12 PREPAREDNESS PLAN IN A COMMON AREA WHERE IT ~~IS~~ IS:

(i) VISIBLE TO ALL ESSENTIAL
13 WORKERS; AND

(ii) WRITTEN IN BOTH
ENGLISH AND A LANGUAGE THAT MOST ESSENTIAL WORKERS UNDERSTAND, WITH
TRANSLATION SERVICES AVAILABLE ON AN ESSENTIAL EMPLOYEE'S REQUEST; AND

14 ~~(2)~~ (3) ON OR BEFORE DECEMBER 31 EACH YEAR, SUBMIT THE HEALTH
15 EMERGENCY PREPAREDNESS PLAN TO THE MARYLAND EMERGENCY MANAGEMENT
16 AGENCY AND THE EMERGENCY MANAGEMENT DIRECTOR FOR EACH COUNTY IN
17 WHICH THE ESSENTIAL EMPLOYER HAS AN OFFICE LOCATION.

18 3-1607.

19 (A) DURING AN EMERGENCY, IF AN ESSENTIAL WORKER OR ANY OTHER
20 WORKER HAS CONTRACTED AN INFECTIOUS DISEASE AT A WORKSITE, THE
21 ESSENTIAL EMPLOYER SHALL TAKE PROACTIVE STEPS TO MINIMIZE THE RISK OF
22 TRANSMISSION, INCLUDING:

23 (1) INFORMING ESSENTIAL WORKERS THAT THEY MAY HAVE BEEN
24 EXPOSED; AND

25 (2) EVACUATING THE WORKSITE UNTIL IT HAS BEEN PROPERLY
26 SANITIZED.

27 (B) IF AN ESSENTIAL WORKER'S HEALTH INSURANCE COVERAGE OR OTHER
28 BENEFITS DO NOT COVER THE COST OF TESTING FOR A CONTAGIOUS ILLNESS OR

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1 DISEASE, DURING AN EMERGENCY, THE ESSENTIAL EMPLOYER SHALL PAY ALL
2 COSTS ASSOCIATED WITH THAT TESTING.

3 (c) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, EACH
4 ESSENTIAL EMPLOYER SHALL REPORT ALL POSITIVE TEST RESULTS TO THE
5 MARYLAND DEPARTMENT OF HEALTH.

6 (2) WHEN REPORTING TO THE MARYLAND DEPARTMENT OF
7 HEALTH, THE ESSENTIAL EMPLOYER SHALL:

8 (i) INCLUDE DEMOGRAPHIC INFORMATION ABOUT THE
9 ESSENTIAL WORKER; AND

10 (ii) REDACT ANY PERSONAL IDENTIFYING INFORMATION TO
11 PROTECT THE IDENTITY OF THE ESSENTIAL WORKER.

12 (d) THE MARYLAND DEPARTMENT OF HEALTH SHALL COLLECT POSITIVE
13 TEST RESULTS, CATEGORIZE THE RESULTS BY INDUSTRY, AND PUBLISH THE
14 RESULTS IN A FORMAT THAT IS READILY ACCESSIBLE TO THE GENERAL PUBLIC.

15 (e) THE COMMISSIONER SHALL ADOPT REGULATIONS AS NECESSARY TO
16 CARRY OUT THIS SECTION.

17 **3-1608.**

18 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
19 INDICATED.

20 (2) "BEREAVEMENT LEAVE" MEANS PAID LEAVE THAT AN ESSENTIAL
21 EMPLOYER PROVIDES TO AN ESSENTIAL WORKER DURING AN EMERGENCY DUE TO
22 THE DEATH OF A FAMILY MEMBER THAT RESULTED FROM THE EMERGENCY.

23 (3) "FAMILY MEMBER" MEANS:

24 (i) A BIOLOGICAL CHILD, AN ADOPTED CHILD, A FOSTER
25 CHILD, OR A STEPCHILD OF THE ESSENTIAL WORKER;

26 (ii) A CHILD FOR WHOM THE ESSENTIAL WORKER HAS LEGAL OR
27 PHYSICAL CUSTODY OR GUARDIANSHIP;

28 (iii) A CHILD FOR WHOM THE ESSENTIAL WORKER STANDS IN
29 LOCO PARENTIS, REGARDLESS OF THE CHILD'S AGE;

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1 (IV) A BIOLOGICAL PARENT, AN ADOPTIVE PARENT, A FOSTER
2 PARENT, OR A STEPPARENT OF THE ESSENTIAL WORKER OR OF THE ESSENTIAL
3 WORKER'S SPOUSE;

4 (V) THE LEGAL GUARDIAN OR WARD OF THE ESSENTIAL
5 WORKER OR OF THE ESSENTIAL WORKER'S SPOUSE;

6 (VI) AN INDIVIDUAL WHO ACTED AS A PARENT OR STOOD IN
7 LOCO PARENTIS TO THE ESSENTIAL WORKER OR THE ESSENTIAL WORKER'S SPOUSE
8 WHEN THE ESSENTIAL WORKER OR THE ESSENTIAL WORKER'S SPOUSE WAS A
9 MINOR;

10 (VII) THE SPOUSE OF THE ESSENTIAL WORKER;

11 (VIII) A BIOLOGICAL GRANDPARENT, AN ADOPTED
12 GRANDPARENT, A FOSTER GRANDPARENT, OR A STEPGRANDPARENT OF THE
13 ESSENTIAL WORKER;

14 (IX) A BIOLOGICAL GRANDCHILD, AN ADOPTED GRANDCHILD, A
15 FOSTER GRANDCHILD, OR A STEPGRANDCHILD OF THE ESSENTIAL WORKER; OR

16 (X) A BIOLOGICAL SIBLING, AN ADOPTED SIBLING, A FOSTER
17 SIBLING, OR A STEPSIBLING OF THE ESSENTIAL WORKER.

18 (4) "HEALTH LEAVE" MEANS PAID LEAVE THAT AN ESSENTIAL
19 EMPLOYER PROVIDES TO AN ESSENTIAL WORKER DURING AN EMERGENCY DUE TO
20 THE ESSENTIAL WORKER'S ILLNESS OR OTHER HEALTH NEEDS RELATED TO THE
21 EMERGENCY.

22 (B) EACH ESSENTIAL EMPLOYER SHALL PROVIDE AN ESSENTIAL WORKER
23 WITH AT LEAST:

24 (1) 3 DAYS OF BEREAVEMENT LEAVE; AND

25 (2) 14 DAYS OF HEALTH LEAVE.

26 (c) THIS SECTION MAY NOT BE CONSTRUED TO:

27 (1) REQUIRE AN ESSENTIAL EMPLOYER TO ALLOW AN ESSENTIAL
28 WORKER TO TAKE LEAVE UNDER SUBSECTION (B) OF THIS SECTION CONSECUTIVELY
29 WITH EARNED SICK AND SAFE LEAVE UNDER SUBTITLE 13 OF THIS TITLE; OR

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17 (2) PROHIBIT AN ESSENTIAL EMPLOYER FROM PROVIDING
1 ADDITIONAL BEREAVEMENT LEAVE, HEALTH LEAVE, OR ANY OTHER TYPE OF LEAVE.
2
3 ~~3-1609.~~

4 (A) (1) (i) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
5 PARAGRAPH AND SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, DURING
6 AN EMERGENCY LASTING AT LEAST 2 WEEKS, EACH ESSENTIAL EMPLOYER SHALL PROVIDE AN
7 ESSENTIAL
8 WORKER WITH ~~HAZARD-PAY~~ AN INCREASED WAGE FOR EACH PAY PERIOD THAT THE ESSENTIAL
9 WORKER
10 WORKS, AT THE REGULAR INTERVAL IN WHICH THE ESSENTIAL WORKER IS PAID.

11 (ii) AN ESSENTIAL EMPLOYER IS NOT REQUIRED TO ~~PROVIDE~~
12 ~~AN ESSENTIAL WORKER WITH HAZARD-PAY~~ INCREASE AN ESSENTIAL EMPLOYEE'S WAGE IF THE
13 ESSENTIAL ~~EMPLOYER~~ EMPLOYEE EARNS
14 \$100,000 OR MORE PER YEAR.

15 (iii) THE ~~AMOUNT OF HAZARD-PAY~~ WAGE PROVIDED UNDER
16 SUBPARAGRAPH (i) OF THIS PARAGRAPH SHALL BE IN THE AMOUNT OF ~~\$3.00~~ \$15.00 PER
17 HOUR, UNLESS A COLLECTIVE BARGAINING AGREEMENT OR SIMILAR AGREEMENT
18 PROVIDES FOR A HIGHER AMOUNT.

19 (2) AN ESSENTIAL WORKER IS ELIGIBLE FOR ~~HAZARD-PAY~~ AN INCREASED WAGE
20 DURING
21 BACK TO THE START OF THE EMERGENCY.

22 (3) AN ESSENTIAL ~~EMPLOYER MAY NOT LOWER AN ESSENTIAL~~
23 ~~WORKER'S REGULAR RATE OF PAY TO ACCOMMODATE THE HAZARD-PAY~~ EMPLOYEE WHO HAS LEFT THE EMPLOY OF
24 AN ESSENTIAL EMPLOYER AND WORKED DURING A PAY PERIOD WHEN INCREASED WAGES WERE INSTITUTED DUE TO AN EMERGENCY
25 IN ACCORDANCE WITH SUBSECTION (A) SHALL BE ELIGIBLE TO RECEIVE THE DIFFERENCE AMOUNTING FROM THE INCREASED
26 WAGE.

27 (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ~~HAZARD-PAY~~ AN INCREASED
28 WAGE
29 MAY NOT BE COUNTED TOWARDS AN ESSENTIAL WORKER'S ELIGIBILITY FOR ANY
30 STATE MEANS-TESTED BENEFIT PROGRAMS.

31 (B) (1) DURING AN EMERGENCY, EACH ESSENTIAL EMPLOYER SHALL
32 PROVIDE FINANCIAL ASSISTANCE FOR UNREIMBURSED HEALTH CARE COSTS TO
33 EACH ESSENTIAL WORKER WHO BECOMES SICK OR IS INJURED IF THE SICKNESS OR
34 INJURY IS RELATED TO THE EMERGENCY.

35 (2) (i) SUBJECT TO SUBPARAGRAPH (ii) OF THIS PARAGRAPH,
36 EACH ESSENTIAL EMPLOYER SHALL SATISFY THE REQUIREMENT UNDER
37 PARAGRAPH (1) OF THIS SUBSECTION FOR ESSENTIAL WORKERS WHO HAVE HEALTH
38 INSURANCE COVERAGE BY REIMBURSING OR PAYING ANY CO-PAYS, INSURANCE
39 PREMIUMS, OUT-OF-POCKET COSTS OF MEDICAL COVERAGE, OR OUT-OF-POCKET
40 TRANSPORTATION COSTS INCURRED OR PAID BY THE ESSENTIAL WORKER.

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18

1 (ii) IF AN ESSENTIAL WORKER IS RECEIVING MEDICAL
2 BENEFITS UNDER THE MARYLAND WORKERS' COMPENSATION ACT, THE ESSENTIAL
3 EMPLOYER SHALL BE CONSIDERED TO HAVE SATISFIED THE REQUIREMENT UNDER
4 PARAGRAPH (1) OF THIS SUBSECTION WITH REGARD TO THAT ESSENTIAL WORKER.

5 (3) EACH ESSENTIAL EMPLOYER SHALL SATISFY THE REQUIREMENT
6 UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR ESSENTIAL WORKERS WHO DO
7 NOT HAVE HEALTH INSURANCE COVERAGE BY ASSISTING THE ESSENTIAL WORKER
8 IN OBTAINING AND PAYING FOR HEALTH INSURANCE COVERAGE, SUCH AS THROUGH
9 COVERAGE OBTAINED THROUGH THE MARYLAND HEALTH BENEFIT EXCHANGE
10 DURING A SPECIAL ENROLLMENT PERIOD INITIATED AS A RESULT OF THE
11 EMERGENCY.

12 (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, FINANCIAL
13 ASSISTANCE PROVIDED FOR HEALTH CARE COSTS MAY NOT BE COUNTED TOWARDS
14 AN ESSENTIAL WORKER'S ELIGIBILITY FOR ANY STATE MEANS-TESTED BENEFIT
15 PROGRAMS.

16 3-1610.

17 AN ESSENTIAL EMPLOYER MAY NOT INTENTIONALLY OR UNINTENTIONALLY
18 MISCLASSIFY AN ESSENTIAL WORKER AS AN INDEPENDENT CONTRACTOR OR OTHER
19 CLASSIFICATION IN ORDER TO AVOID PAYING AN ESSENTIAL WORKER THE ~~HAZARD~~
20 ~~PAY INCREASED WAGE~~ REQUIRED UNDER § 13-1609 OF THIS SUBTITLE OR ANY OTHER BENEFITS
DUE
21 DURING AN EMERGENCY UNDER THIS SUBTITLE.

22 3-1611.

23 (A) (1) A PERSON THAT ALLEGES A VIOLATION OF THIS SUBTITLE MAY
24 FILE A COMPLAINT WITH THE COMMISSIONER WITHIN 2 YEARS AFTER THE DATE
25 THE PERSON KNEW OR SHOULD HAVE KNOWN OF THE ALLEGED VIOLATION.

26 (2) ON RECEIVING A COMPLAINT, THE COMMISSIONER SHALL
27 INVESTIGATE THE COMPLAINT.

28 (3) THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE MAY
29 OPEN AN INVESTIGATION ON THE COMMISSIONER'S OWN INITIATIVE.

30 (4) AN ESSENTIAL EMPLOYER THAT IS UNDER INVESTIGATION SHALL
31 COMPLY WITH ANY REQUESTS FROM THE COMMISSIONER TO PROVIDE EVIDENCE OR
32 INFORMATION AS A PART OF THE INVESTIGATION.

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1 (5) (i) THE COMMISSIONER SHALL KEEP THE IDENTITY OF A
2 COMPLAINANT CONFIDENTIAL UNLESS DISCLOSURE IS NECESSARY TO RESOLVE
3 THE INVESTIGATION OR IS OTHERWISE REQUIRED BY LAW.

4 (ii) TO THE EXTENT PRACTICABLE, BEFORE DISCLOSING A
5 COMPLAINANT'S IDENTITY, THE COMMISSIONER SHALL NOTIFY THE COMPLAINANT
6 OF THE NEED TO DISCLOSE.

7 (b) IF THE COMMISSIONER DETERMINES THAT AN ESSENTIAL EMPLOYER
8 HAS VIOLATED THIS SUBTITLE, THE COMMISSIONER:

9 (1) SHALL ISSUE AN ORDER COMPELLING COMPLIANCE; AND

10 (2) MAY:

11 (i) IMPOSE A CIVIL PENALTY OF NOT MORE THAN \$1,000; AND

12 (ii) GRANT AN ESSENTIAL WORKER CURRENTLY OR FORMERLY
13 EMPLOYED BY THE ESSENTIAL EMPLOYER:

14 1. ~~COMPENSATORY DAMAGES AND ANY OTHER RELIEF~~
15 ~~NECESSARY TO MAKE THE INDIVIDUAL WHOLE~~ DAMAGES AMOUNTING TO A MINIMUM OF 120% OF THE
INDIVIDUAL'S LOST WAGES, BENEFITS, AND COSTS;

16 2. RESCISSION OF ANY DISCIPLINE ISSUED IN
17 VIOLATION OF THIS SUBTITLE;

18 3. REINSTATEMENT OF AN ESSENTIAL WORKER
19 TERMINATED IN VIOLATION OF THIS SUBTITLE;

20 4. PAYMENT OF BACK PAY FOR ANY LOSS OF PAY OR
21 BENEFITS RESULTING FROM RETALIATION OR OTHER ADVERSE ACTION; AND

22 5. REASONABLE ATTORNEY'S FEES.

23 (c) (1) FOR EACH VIOLATION, THE RELIEF AUTHORIZED UNDER THIS
24 SECTION SHALL BE IMPOSED ON A PER-ESSENTIAL WORKER AND PER-INSTANCE
25 BASIS.

26 (2) IN DETERMINING THE AMOUNT OF A CIVIL PENALTY, THE
27 COMMISSIONER SHALL CONSIDER:

28 (i) THE GRAVITY OF THE VIOLATION;

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1 (II) THE SIZE OF THE EMPLOYER'S BUSINESS;

2 (III) THE EMPLOYER'S GOOD FAITH; AND

3 (IV) THE EMPLOYER'S HISTORY OF VIOLATIONS UNDER THE
4 SECTION.

5 (3) IF THE COMMISSIONER ASSESSES A PENALTY UNDER PARAGRAPH
6 (1) OF THIS SUBSECTION, THE PENALTY SHALL BE SUBJECT TO THE NOTICE AND
7 HEARING REQUIREMENTS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT
8 ARTICLE.

(D) MONEY COLLECTED BY THE COMMISSIONER AS A RESULT OF A PENALTY
ASSESSED UNDER THIS SUBTITLE SHALL BE DISTRIBUTED:

(1) 80% TO THE MARYLAND EMERGENCY MEDICAL SYSTEM
OPERATIONS FUND; AND

(2) 20% TO THE GENERAL FUND.

9 3-1612.

10 THIS SUBTITLE MAY BE CITED AS THE MARYLAND ESSENTIAL WORKERS'
11 PROTECTION ACT.

12 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to~~
13 ~~apply only prospectively and may not be applied or interpreted to require the payment of~~
14 ~~hazard pay for work performed in an emergency before the effective date of this Act.~~

15 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
16 measure, is necessary for the immediate preservation of the public health or safety, has
17 been passed by a ye and nay vote supported by three-fifths of all the members elected to
18 each of the two Houses of the General Assembly, and shall take effect from the date it is
19 enacted.