

House Passes Families First Coronavirus Response Act

By Dave Robinson on March 16, 2020



Last Saturday, the U.S. House of Representatives passed the *Families First Coronavirus Response Act* to address the anticipated economic impacts of the Coronavirus outbreak and to provide support to affected Americans. Although the bill may be subject to changes, it is expected that the Senate will pass the bill and it will be signed into law early this week.

Among other benefits, the bill provides temporary paid sick and family leave for employees. In essence, employers are required to provide paid sick and family leave for employees who are impacted by the Coronavirus and will receive a credit against the employer's liability for payroll taxes. If passed, this paid sick and family leave program will be in effect until the end of the year.

Summary of Key Provisions:

- **Paid Family & Medical Leave**

Businesses with less than 500 employees must allow employees who have been on the job for at least 30 days to take modified paid leave for up to 12 weeks if they have been diagnosed with the Coronavirus, they are caring for a family member who has it or if they are required to care for a dependent under 18 years old due to their school or childcare facility closing. After two weeks of unpaid leave (an employee can substitute PTO), a qualified employee would then receive two-thirds of their regular rate of pay for the remainder of the leave. In most circumstances, the employee must be restored to an equivalent position, with equivalent benefits, pay, and other terms and conditions of employment at the conclusion of the leave.

- **Paid Sick Leave**

Businesses with less than 500 employees must also provide employees with two weeks of paid sick leave, at the employee's regular rate, for time off to quarantine or seek a diagnosis or preventative care for coronavirus; or paid at two-thirds the employee's regular rate to care for a family member for such purposes, or to care for a child whose school has closed or child care provider is unavailable due to the coronavirus. The paid sick leave is in addition to any vacation, PTO or sick leave previously offered by employers. There is also no exemption based on the requirements of the Massachusetts Sick Leave Law. Accordingly, including Massachusetts Sick Leave, employers would now be required to provide up to three weeks of paid sick leave.

Similar to the Massachusetts Sick Leave Law, the bill prohibits employers from requiring a worker to find a replacement to cover their sick leave, and also makes it unlawful to

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discharge or discriminate against employees for requesting paid sick leave or filing a complaint against their employer regarding the use of paid sick leave.

• **Tax Credits for Paid Sick and Family & Medical Leave**

In order to make compliance less burdensome for employers, businesses will receive a refundable tax credit for qualified sick and family & medical leave wages paid by an employer accrued by calendar quarter. The tax credit is allowed against the tax imposed against the employer's portion of payroll taxes.

For purposes of calculating tax credits, the credits are capped as follows:

- For qualified sick leave wages paid with respect to employees who must self-isolate, obtain a diagnosis, or comply with a self-isolation recommendation with respect to coronavirus, the cap is \$511 per day for each employee.
- For employees that used sick leave to care for a family member or a child whose school or place of care has been closed, the cap is at \$200 per day for each employee.
- The amount of qualified family & medical leave wages is capped at \$200 per day per employee and \$10,000 for all calendar quarters.

The bill makes the tax credits refundable if the credit exceeds the employer's total liability for payroll taxes for any calendar quarter.

*Like all aspects of the Coronavirus outbreak, the legal ramifications are fluid and evolving on a daily basis. RIW is monitoring the situation closely and will provide updates as circumstances change. In the meantime, please contact **David Robinson**, the coordinator of RIW's **Employment Law Practice Group** if you have any questions regarding managing the nuances and complications of the Coronavirus and its impact on employees.*

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