

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

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HOUSE BILL 1046

Short Title: COVID-19 Paid Sick Leave. (Public)

Sponsors: Representatives Fisher and Batch (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Finance, if favorable, Commerce, if favorable, Health, if favorable, Rules, Calendar, and Operations of the House

April 28, 2020

A BILL TO BE ENTITLED
AN ACT PROVIDING PAID SICK LEAVE IN RESPONSE TO THE COVID-19 OUTBREAK
FOR THE PERIOD FROM APRIL 1, 2020, THROUGH DECEMBER 31, 2020.

The General Assembly of North Carolina enacts:

SECTION 1.1. Findings. – The General Assembly finds the following:

- (1) COVID-19 was declared a pandemic by the World Health Organization on March 11, 2020.
- (2) The United States Secretary of Health and Human Services declared a public health emergency on January 31, 2020. On March 13, 2020, the President of the United States found that the COVID-19 outbreak in the United States constitutes a national emergency, beginning March 1, 2020.
- (3) Governor Roy Cooper issued Executive Order No. 116 on March 10, 2020, to declare a state of emergency, and subsequently issued various other executive orders in response to the COVID-19 outbreak.
- (4) Coronavirus is an easily communicable disease. Experts at the World Health Organization and the United States Centers for Disease Control and Prevention recommend that exposed persons observe a 14-day period of isolation or quarantine to prevent exposing others.
- (5) In an effort to prevent the spread of the disease and respond to the outbreak, the Families First Coronavirus Response Act became federal law on March 18, 2020.
- (6) The Families First Coronavirus Response Act, Public Law 116-127, requires some employers to provide 80 hours of paid sick leave to full-time employees and the equivalent of the typical number of hours worked in a two-week period for part-time employees for the following reasons:
 - a. The employee is subject to a federal, State, or local quarantine or isolation order related to COVID-19.
 - b. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
 - c. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
 - d. The employee is caring for an individual who is subject to an order as described in sub-subdivision a. of this subdivision or has been advised as described in sub-subdivision b. of this subdivision.



1 e. The employee is caring for a son or daughter of the employee if the
2 school or place of care of the son or daughter has been closed, or the
3 child care provider of such son or daughter is unavailable, due to
4 COVID-19 precautions.

5 f. The employee is experiencing any other substantially similar condition
6 specified by the United States Secretary of Health and Human Services
7 in consultation with the United States Secretary of the Treasury and
8 the United States Secretary of Labor.

9 (7) The Families First Coronavirus Response Act exempts certain workers from
10 COVID-19 paid sick days, specifically health care providers, first responders,
11 and employees at businesses with more than 500 employees in the United
12 States.

13 (8) Exceptions to the COVID-19 paid sick days put our communities at risk of
14 further spreading the COVID-19 virus.

15 **SECTION 1.2.** Definitions. – The following definitions apply in this act:

16 (1) Employee. – An individual engaged in service to an employer in the business
17 of the employer for compensation.

18 (2) Employer. – Any individual, organization, or governmental body, partnership,
19 association, corporation, legal representative, trustee, receiver, trustee in
20 bankruptcy, and any common carrier by rail, motor, water, or air or express
21 company doing business or operating within this State.

22 **SECTION 2.1.** COVID-19 Paid Sick Leave. – Paid sick leave for all under this act
23 shall be provided as follows:

24 (1) Each employer shall provide at least two weeks of COVID-19 paid sick leave
25 to each full-time employee and the equivalent hours of a typical two-week
26 period for part-time employees working for the employer for the following
27 reasons:

28 a. The employee is subject to a federal, State, or local quarantine or
29 isolation order related to COVID-19.

30 b. The employee has been advised by a health care provider to
31 self-quarantine due to concerns related to COVID-19.

32 c. The employee is experiencing symptoms of COVID-19 and seeking a
33 medical diagnosis.

34 d. The employee is caring for an individual who is subject to an order as
35 described in sub-subdivision a. of this subdivision or has been advised
36 as described in sub-subdivision b. of this subdivision.

37 e. The employee is caring for a son or daughter of the employee if the
38 school or place of care of the son or daughter has been closed, or the
39 child care provider of such son or daughter is unavailable, due to
40 COVID-19 precautions.

41 f. The employee is experiencing any other substantially similar condition
42 specified by the United States Secretary of Health and Human Services
43 in consultation with the United States Secretary of the Treasury and
44 the United States Secretary of Labor.

45 (2) The employer shall pay the employee for earned sick leave at the same rate of
46 pay with the same benefits as the employee normally earns. COVID-19 paid
47 sick time shall be paid on the same schedule and in the same paycheck as
48 regular wages are paid. An employer shall not delay compensating an
49 employee for COVID-19 sick time.

50 (3) Employers are prohibited from requiring that:

- 1 a. Employees use other paid leave, such as paid personal, vacation, or
2 regular sick days already granted by the employer or negotiated in a
3 collective bargaining agreement prior to using COVID-19 paid sick
4 days; and that
5 b. Employees must find a replacement to cover his or her scheduled work
6 hours.

7 **SECTION 2.2.** Retaliation Prohibition. – Retaliation for taking leave as provided by
8 this act is prohibited as follows:

- 9 (1) No employer shall take retaliatory personnel action or discriminate against an
10 employee because the employee requests or uses COVID-19 sick leave in
11 accordance with this act, or files a complaint with the commissioner alleging
12 the employer's violation of any provision of this act, or informs any other
13 person of their rights under this act.
14 (2) No employer shall count earned sick leave taken under this act as an absence
15 that may result in the employee being subject to discipline, discharge,
16 demotion, suspension, a loss or reduction of pay, or any other adverse action.

17 **SECTION 3.1.** Violations. – Any failure of an employer to make available or pay
18 earned sick leave as required by this act, or any other violation of this act, shall be regarded as a
19 failure to meet the wage payment requirements of Article 2A of Chapter 95 of the General
20 Statutes, the North Carolina Wage and Hour Act, and will be enforced as such.

21 **SECTION 4.1.** Notice. – Employers shall provide written notification to employees
22 of their rights under this act, including the amount of COVID-19 paid sick leave to which they
23 are entitled and the terms of its use, and remedies provided by this act to employees if an
24 employer fails to provide the required benefits or retaliates against employees exercising their
25 rights under this act.

26 **SECTION 5.1.** Construction. – No provision of this act, or any regulations
27 promulgated to implement or enforce this act, shall be construed as:

- 28 (1) Requiring an employer to reduce, or justifying an employer in reducing, rights
29 or benefits provided by the employer, pursuant to an employer policy or
30 collective bargaining agreement, which are more favorable to employees than
31 those required by this act or which provide rights or benefits to employees not
32 covered by this act;
33 (2) Preventing or prohibiting the employer from agreeing, through a collective
34 bargaining agreement or employer policy, to provide rights or benefits which
35 are more favorable to employees than those required by this act or to provide
36 rights or benefits to employees not covered by this act; or
37 (3) Superseding any law providing collective bargaining rights for employees, or
38 in any way reducing, diminishing, or adversely affecting those collective
39 bargaining rights, or in any way reducing, diminishing, or affecting the
40 obligations of employers under those laws.

41 **SECTION 6.1.** Effective Date. – This act is effective from April 1, 2020, through
42 December 31, 2020, and applies to employers employing 500 or more employees in this State on
43 April 1, 2020.