

HOUSE BILL NO. 5763

May 05, 2020, Introduced by Reps. Hammoud, Hoadley, Greig, Cherry, Sabo, Garza, Koleszar, Cynthia Neeley, Cambensy, Kuppa, Lasinski, Haadsma, Ellison, Rabhi, Tate and Camilleri and referred to the Committee on Health Policy.

A bill to amend 2018 PA 338, entitled
"Paid medical leave act,"
by amending section 2 (MCL 408.962), as amended by 2018 PA 369, and
by adding section 3a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 2. As used in this act:
- 2 (a) "Benefit year" means any consecutive 12-month period used
- 3 by an employer to calculate an eligible employee's benefits.
- 4 (b) "Department" means the department of ~~licensing and~~



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1 ~~regulatory affairs.~~ **labor and economic opportunity.**

2 (c) "Director" means the director of the department or the
3 director's designee.

4 (d) "Domestic violence" means that term as defined in section
5 1 of 1978 PA 389, MCL 400.1501.

6 (e) "Eligible employee" means an individual engaged in service
7 to an employer in the business of the employer and from whom an
8 employer is required to withhold for federal income tax purposes.
9 Eligible employee does not include any of the following:

10 (i) An individual who is exempt from overtime requirements
11 under section 13(a)(1) of the fair labor standards act, 29 USC
12 213(a)(1).

13 (ii) An individual who is not employed by a public agency, as
14 that term is defined in section 3 of the fair labor standards act,
15 29 USC 203, and who is covered by a collective bargaining agreement
16 that is in effect.

17 (iii) An individual employed by the United States government,
18 another state, or a political subdivision of another state.

19 (iv) An individual employed by an air carrier as a flight deck
20 or cabin crew member that is subject to title II of the railway
21 labor act, 45 USC 151 to 188.

22 (v) An employee as described in section 201 of the railway
23 labor act, 45 USC 181.

24 (vi) An employee as defined in section 1 of the railroad
25 unemployment insurance act, 45 USC 351.

26 (vii) An individual whose primary work location is not in this
27 state.

28 (viii) An individual whose minimum hourly wage rate is
29 determined under section 4b of the improved workforce opportunity



1 wage act, 2018 PA 337, MCL 408.934b.

2 (ix) An individual described in section 29(1)(l) of the
3 Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.29.

4 (x) An individual employed by an employer for 25 weeks or
5 fewer in a calendar year for a job scheduled for 25 weeks or fewer.

6 (xi) A variable hour employee as defined in 26 CFR 54.4980H-1.

7 (xii) An individual who worked, on average, fewer than 25 hours
8 per week during the immediately preceding calendar year.

9 (f) **"Eligible first responder" means an eligible employee that**
10 **is any of the following:**

11 (i) **A public health or public safety officer.**

12 (ii) **A full-time, part-time, or volunteer law enforcement**
13 **officer.**

14 (iii) **A full-time, part-time, or volunteer firefighter.**

15 (iv) **An emergency medical services worker, including hospital**
16 **emergency workers.**

17 (v) **Any worker who responds to a disaster or pandemic in the**
18 **worker's scope of employment.**

19 (vi) **Any related worker that provides support services during**
20 **the prevention, response, or recovery phases of a disaster or**
21 **pandemic.**

22 (g) ~~(f)~~ **"Employer" means any person, firm, business,**
23 **educational institution, nonprofit agency, corporation, limited**
24 **liability company, government entity, or other entity that employs**
25 **50 or more individuals. Employer does not include the United States**
26 **government, another state, or a political subdivision of another**
27 **state.**

28 (h) ~~(g)~~ **"Family member" includes all of the following:**



(i) A biological, adopted or foster child, stepchild or legal ward, or a child to whom the eligible employee stands in loco parentis.

(ii) A biological parent, foster parent, stepparent, or adoptive parent or a legal guardian of an eligible employee or an eligible employee's spouse or an individual who stood in loco parentis when the eligible employee was a minor child.

(iii) An individual to whom the eligible employee is legally married under the laws of any state.

(iv) A grandparent.

(v) A grandchild.

(vi) A biological, foster, or adopted sibling.

(i) ~~(h)~~ "Health care provider" means that term as defined in section 101 of the family and medical leave act, 29 USC 2611.

(j) ~~(i)~~ "Paid medical leave" means time off from work that is provided by an employer to an eligible employee that can be used for the purposes described in section 4(1).

(k) ~~(j)~~ "Sexual assault" means any act that violates section 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

Sec. 3a. (1) Notwithstanding any other provision of this act, if the governor or President of the United States declares an emergency because of infectious disease, an employer shall, while the declaration of emergency is in effect, pay an eligible first responder at the eligible first responder's normal hourly wage or base wage for leave taken as the result of any of the following:

(a) The eligible first responder contracts the infectious disease while performing his or her duties.

(b) The eligible first responder self-isolates or is



1 quarantined pursuant to a directive from his or her employer or
2 treating physician or a local, state, or federal agency.

3 (2) The paid leave described in subsection (1) is in addition
4 to any other paid leave required under this act. An employer shall
5 not do any of the following:

6 (a) Require an eligible first responder to use paid leave
7 accrued under section 3 for paid leave described in subsection (1).

8 (b) Require an eligible first responder to use any other form
9 of paid leave, as that term is defined in section 3, for leave
10 described in subsection (1).

