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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 2

01/07/2021 Authored by Ecklund, Noor, Youakim, Koegel, Xiong, J., and others
The bill was read for the first time and referred to the Committee on Labor, Industry, Veterans and Military Affairs Finance and Policy

1.1 A bill for an act
1.2 relating to state government; adopting worker protection provisions; providing a
1.3 presumption for workers' compensation coverage; removing social security and
1.4 social security disability offsets for unemployment insurance; providing rehire
1.5 and retention protections for laid-off workers during a declared emergency;
1.6 providing emergency paid sick leave for certain essential workers; requiring reports;
1.7 authorizing rulemaking; amending Minnesota Statutes 2020, section 268.085,
1.8 subdivisions 4, 4a; proposing coding for new law in Minnesota Statutes, chapter
1.9 181.

1.10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.11 ARTICLE 1
1.12 WORKERS COMPENSATION

1.13 Section 1. WORKERS' COMPENSATION FOR CERTAIN SCHOOL EMPLOYEES
1.14 WHO CONTRACT COVID-19.

1.15 (a) Notwithstanding Minnesota Statutes, section 176.011, subdivision 15, paragraph (a),
1.16 an employee who contracts COVID-19 is presumed to have an occupational disease arising
1.17 out of and in the course of employment if the employee satisfies the requirements of
1.18 paragraphs (b) and (c).

1.19 (b) The employee was employed as: a teacher or school administrator by a school district,
1.20 charter school, or nonpublic school; a contract employee who provides student-related
1.21 services throughout the school year to a school district, charter school, or nonpublic school,
1.22 including paraprofessionals, student support services personnel, school bus drivers, school
1.23 nutrition staff, and custodial staff; or any other person employed by the school district,
1.24 charter school, or nonpublic school or providing services to students under a contract with
1.25 the school district, charter school, or nonpublic school.

2.1 (c) The employee's contraction of COVID-19 must be confirmed by a positive laboratory
 2.2 test or, if a laboratory test was not available for the employee, as diagnosed and documented
 2.3 by the employee's licensed physician, licensed physician's assistant, or licensed advanced
 2.4 practice registered nurse (APRN) based on the employee's symptoms. A copy of the positive
 2.5 laboratory test or the written documentation of the physician's, physician assistant's, or
 2.6 APRN's diagnosis shall be provided to the employer or insurer.

2.7 (d) Once the employee has satisfied the requirements of paragraphs (b) and (c), the
 2.8 presumption shall only be rebutted if the employer or insurer shows the employment was
 2.9 not a direct cause of the disease. A denial of liability under this section must meet the
 2.10 requirements for a denial under Minnesota Statutes, section 176.221, subdivision 1.

2.11 (e) The date of injury for an employee who has contracted COVID-19 under this section
 2.12 shall be the date that the employee was unable to work due to a diagnosis of COVID-19,
 2.13 or due to symptoms that were later diagnosed as COVID-19, whichever occurred first.

2.14 (f) An employee who has contracted COVID-19 but who is not entitled to the presumption
 2.15 under this section is not precluded from claiming an occupational disease as provided in
 2.16 Minnesota Statutes, section 176.011, subdivision 15, or from claiming a personal injury
 2.17 under Minnesota Statutes, section 176.011, subdivision 16.

2.18 (g) The commissioner shall provide a detailed report on COVID-19 workers'
 2.19 compensation claims under this section to the Workers' Compensation Advisory Council
 2.20 and chairs and ranking minority members of the house of representatives and senate
 2.21 committees with jurisdiction over workers' compensation and education finance and policy
 2.22 by January 15, 2021, and then provide an updated report by August 15, 2021.

2.23 **EFFECTIVE DATE.** This section is effective the day following final enactment and
 2.24 applies retroactively for employees who contracted COVID-19 on or after July 15, 2020.
 2.25 This section sunsets on July 30, 2021.

2.26 **ARTICLE 2**

2.27 **UNEMPLOYMENT INSURANCE**

2.28 Section 1. Minnesota Statutes 2020, section 268.085, subdivision 4, is amended to read:

2.29 Subd. 4. **Social Security old age insurance benefits.** (a) If all of the applicant's wage
 2.30 credits were earned while the applicant was claiming Social Security old age benefits, there
 2.31 is no deduction of the Social Security benefits from the applicant's weekly unemployment
 2.32 benefit amount.

3.1 (b) ~~Unless~~ When paragraph (a) ~~applies, 50 percent~~ does not apply, none of the weekly
3.2 equivalent of the primary Social Security old age benefit the applicant has received, has
3.3 filed for, or intends to file for, with respect to that week ~~must~~ may be deducted from an
3.4 applicant's weekly unemployment benefit amount.

3.5 (c) Any applicant aged 62 or over is required to state when filing an application for
3.6 unemployment benefits and when filing continued requests for unemployment benefits if
3.7 the applicant is receiving, has filed for, or intends to file for, primary Social Security old
3.8 age benefits.

3.9 (d) Information from the Social Security Administration is conclusive, absent specific
3.10 evidence showing that the information was erroneous.

3.11 (e) This subdivision does not apply to Social Security survivor benefits.

3.12 **EFFECTIVE DATE.** This section is effective retroactively from January 1, 2021.

3.13 Sec. 2. Minnesota Statutes 2020, section 268.085, subdivision 4a, is amended to read:

3.14 Subd. 4a. **Social Security disability benefits.** (a) An applicant who is receiving, has
3.15 received, or has filed for primary Social Security disability benefits for any week is ineligible
3.16 for unemployment benefits for that week, unless:

3.17 (1) the Social Security Administration approved the collecting of primary Social Security
3.18 disability benefits each month the applicant was employed during the base period; or

3.19 (2) the applicant provides a statement from an appropriate health care professional who
3.20 is aware of the applicant's Social Security disability claim and the basis for that claim,
3.21 certifying that the applicant is available for suitable employment.

3.22 (b) If an applicant meets the requirements of paragraph (a), clause (1), there is no
3.23 deduction from the applicant's weekly benefit amount for any Social Security disability
3.24 benefits.

3.25 (c) If an applicant meets the requirements of paragraph (a), clause (2), there must be
3.26 deducted from the applicant's weekly unemployment benefit amount ~~50 percent~~ none of the
3.27 weekly equivalent of the primary Social Security disability benefits the applicant is receiving,
3.28 has received, or has filed for, with respect to that week.

3.29 If the Social Security Administration determines that the applicant is not entitled to
3.30 receive primary Social Security disability benefits for any week the applicant has applied
3.31 for those benefits, then this paragraph does not apply to that week.

4.1 (d) Information from the Social Security Administration is conclusive, absent specific
4.2 evidence showing that the information was erroneous.

4.3 (e) This subdivision does not apply to Social Security survivor benefits.

4.4 **EFFECTIVE DATE.** This section is effective retroactively from January 1, 2021.

4.5 ARTICLE 3

4.6 EMERGENCY REHIRE AND RETENTION LAW

4.7 Section 1. **[181.990] DEFINITIONS.**

4.8 **Subdivision 1. Applicability.** For the purposes of sections 181.990 to 181.993, the
4.9 following terms have the meanings given in this section.

4.10 **Subd. 2. Air carrier.** "Air carrier" means a person undertaking by any means, directly
4.11 or indirectly, to provide air transportation of persons, property, or mail.

4.12 **Subd. 3. Aircraft.** "Aircraft" means any contrivance invented, used, or designed for
4.13 navigation of or flight in the air, but excluding parachutes.

4.14 **Subd. 4. Airport.** "Airport" means any area of land or water, except a restricted landing
4.15 area, which is designed for the landing and takeoff of aircraft, whether or not facilities are
4.16 provided for the shelter, surfacing, or repair of aircraft, or for receiving or discharging
4.17 passengers or cargo, and all appurtenant areas used or suitable for airport buildings or other
4.18 airport facilities, and all appurtenant rights-of-way, whether heretofore or hereafter
4.19 established.

4.20 **Subd. 5. Airport authority.** "Airport authority" means an authority created pursuant to
4.21 section 360.0426.

4.22 **Subd. 6. Airport facility management.** "Airport facility management" means a person
4.23 directing or supervising airport management activities, including but not limited to:

4.24 (1) information management;

4.25 (2) building and property management;

4.26 (3) civil services;

4.27 (4) procurement and logistics management; and

4.28 (5) legal services.

4.29 **Subd. 7. Airport hospitality operation.** (a) "Airport hospitality operation" means a
4.30 business that:

5.1 (1) prepares, delivers, inspects, or provides any other service in connection with the
 5.2 preparation of food or beverage for aircraft crew or passengers at an airport; or

5.3 (2) provides food and beverage, retail, or other consumer goods or services to the public
 5.4 at an airport.

5.5 (b) Airport hospitality operation does not include an air carrier certified by the Federal
 5.6 Aviation Administration.

5.7 Subd. 8. **Airport service provider.** (a) "Airport service provider" means a business that
 5.8 performs, under contract with a passenger air carrier, airport facility management, or airport
 5.9 authority, functions on the property of the airport that are directly related to the air
 5.10 transportation of persons, property, or mail, including but not limited to:

5.11 (1) the loading and unloading of property on aircraft;

5.12 (2) assistance to passengers under Code of Federal Regulations, title 14, part 382;

5.13 (3) security;

5.14 (4) airport ticketing and check-in functions;

5.15 (5) ground-handling of aircraft;

5.16 (6) aircraft cleaning and sanitization functions; or

5.17 (7) airport authority.

5.18 (b) Airport service provider does not include an air carrier certificated by the Federal
 5.19 Aviation Administration.

5.20 Subd. 9. **Building service.** "Building service" means janitorial, building maintenance,
 5.21 or security services.

5.22 Subd. 10. **Business day.** "Business day" means Monday through Friday, excluding any
 5.23 holidays as defined in section 645.44.

5.24 Subd. 11. **Change in control.** "Change in control" means any sale, assignment, transfer,
 5.25 contribution, or other disposition of all or substantially all of the assets used in the operation
 5.26 of an enterprise or a discrete portion of the enterprise that continues in operation as an
 5.27 enterprise, or a controlling interest, including by consolidation, merger, or reorganization,
 5.28 of the incumbent employer or any person who controls the incumbent employer.

5.29 Subd. 12. **Declared emergency.** "Declared emergency" means a national security or
 5.30 peacetime emergency declared by the governor under section 12.31, a local emergency
 5.31 declared by the mayor of a municipality or the chair of a county board of commissioners

6.1 under section 12.29, a federal public health emergency declared by the secretary of the
6.2 Department of Health and Human Services, or a major disaster or national emergency
6.3 declared by the president.

6.4 Subd. 13. **Eligible employee.** (a) "Eligible employee" means an individual:

6.5 (1) whose primary place of employment is at an enterprise subject to a change in control;

6.6 (2) who is employed directly by the incumbent employer, or by an employer who has
6.7 contracted with the incumbent employer to provide services at the enterprise subject to a
6.8 change in control; and

6.9 (3) who has worked for the incumbent employer for at least one month prior to the
6.10 execution of the transfer document.

6.11 (b) Eligible employee does not include a managerial, supervisory, or confidential
6.12 employee.

6.13 Subd. 14. **Employee.** "Employee" means an individual who performs services for hire
6.14 for at least two hours in a particular week for an employer.

6.15 Subd. 15. **Employer.** "Employer" means any person who directly, indirectly, or through
6.16 an agent or any other person, including through the services of a temporary service or staffing
6.17 agency or similar entity, owns or operates an enterprise and employs one or more employees.

6.18 Subd. 16. **Enterprise.** "Enterprise" means a hotel, event center, airport hospitality
6.19 operation, airport service provider, or the provision of building service to office, retail, or
6.20 other commercial buildings.

6.21 Subd. 17. **Event center.** (a) "Event center" means a publicly or privately owned structure
6.22 of more than 50,000 square feet or 2,000 seats that is used for the purposes of public
6.23 performances, sporting events, business meetings, or similar events, and includes concert
6.24 halls, stadiums, sports arenas, racetracks, coliseums, and convention centers.

6.25 (b) Event center also includes any contracted, leased, or sublet premises connected to
6.26 or operated in conjunction with the event center's purpose, including food preparation
6.27 facilities, concessions, retail stores, restaurants, bars, and structured parking facilities.

6.28 Subd. 18. **Hotel.** (a) "Hotel" means a building, structure, enclosure, or any part thereof:

6.29 (1) used as, maintained as, advertised as, or held out to be a place where sleeping
6.30 accommodations, lodging, and other related services are furnished to the public; and

6.31 (2) containing 75 or more guest rooms, or suites of rooms, except adjoining rooms do
6.32 not constitute a suite of rooms. The number of guest rooms, or suites of rooms, shall be

7.1 calculated based on the room count on the opening of the hotel or on December 31, 2019,
7.2 whichever is greater.

7.3 (b) Hotel also includes any contracted, leased, or sublet premises connected to or operated
7.4 in conjunction with the hotel's purpose, or providing services thereat.

7.5 Subd. 19. **Incumbent employer.** "Incumbent employer" means a person who owns or
7.6 operates an enterprise subject to a change in control prior to the change in control.

7.7 Subd. 20. **Laid-off employee.** "Laid-off employee" means any employee who was
7.8 employed by the employer for six months or more in the 12 months preceding January 31,
7.9 2020, and whose most recent separation from actively performing services for hire occurred
7.10 after January 31, 2020, and was due to a public health directive, government shutdown
7.11 order, lack of business, a reduction in force, or other economic, nondisciplinary reason
7.12 related to the declared emergency.

7.13 Subd. 21. **Length of service.** "Length of service" means the total of all periods of time
7.14 during which an employee has actively been performing services for hire with the employer,
7.15 including periods of time when the employee was on leave or on vacation.

7.16 Subd. 22. **Person.** "Person" means an individual, corporation, partnership, limited
7.17 partnership, limited liability partnership, limited liability company, business trust, estate,
7.18 trust, association, joint venture, agency, instrumentality, or any other legal or commercial
7.19 entity, whether domestic or foreign.

7.20 Subd. 23. **Successor employer.** "Successor employer" means a person that owns or
7.21 operates an enterprise subject to a change in control after the change in control.

7.22 Subd. 24. **Transfer document.** "Transfer document" means the purchase agreement or
7.23 other documents creating a binding agreement to effect the change in control.

7.24 Sec. 2. **[181.991] EMERGENCY REHIRE AND RETENTION OF LAID-OFF**
7.25 **EMPLOYEES.**

7.26 Subdivision 1. **Rehire and recall requirements.** (a) An employer shall offer its laid-off
7.27 employees in writing, to their last known physical address, and by e-mail and text message
7.28 to the extent the employer possesses such information, all job positions that become available
7.29 after the effective date of this section for which the laid-off employees are qualified. A
7.30 laid-off employee is qualified for a position if the employee either:

7.31 (1) held the same or similar position at the enterprise at the time of the employee's most
7.32 recent separation from actively performing services for hire with the employer; or

8.1 (2) is or can be qualified for the position with the same training that would be provided
8.2 to a new employee hired into that position.

8.3 (b) The employer shall offer positions to laid-off employees in an order of preference
8.4 corresponding to paragraph (a), clauses (1) and (2). If more than one employee is entitled
8.5 to preference for a position, the employer shall offer the position to the laid-off employee
8.6 with the greatest length of service for the enterprise.

8.7 (c) A laid-off employee who is offered a position pursuant to this section shall be given
8.8 at least five business days in which to accept or decline the offer. An employer may make
8.9 simultaneous conditional offers of employment to laid-off employees, with a final offer of
8.10 employment conditioned on application of the priority system in paragraph (b).

8.11 (d) An employer that declines to recall a laid-off employee on the grounds of lack of
8.12 qualifications and instead hires someone other than a laid-off employee shall provide the
8.13 laid-off employee a written notice within 30 days identifying those hired in lieu of that
8.14 recall, along with all reasons for the decision.

8.15 (e) This section also applies in any of the following circumstances:

8.16 (1) the ownership of the employer changed after the separation from employment of a
8.17 laid-off employee but the enterprise is conducting the same or similar operations as before
8.18 the declared emergency;

8.19 (2) the form of organization of the employer changed after the declared emergency;

8.20 (3) substantially all of the assets of the employer were acquired by another entity which
8.21 conducts the same or similar operations using substantially the same assets; or

8.22 (4) the employer relocates the operations at which a laid-off employee was employed
8.23 before the declared emergency to a different location.

8.24 Subd. 2. **Successor employer and retention requirements** (a)(1) The incumbent
8.25 employer shall, within 15 days after the execution of a transfer document, provide to the
8.26 successor employer the name, address, date of hire, and employment occupation classification
8.27 of each eligible employee.

8.28 (2) The successor employer shall maintain a preferential hiring list of eligible employees
8.29 identified by the incumbent employer under clause (1), and shall be required to hire from
8.30 that list for a period beginning upon the execution of the transfer document and continuing
8.31 for six months after the enterprise is open to the public under the successor employer.

9.1 (3) If the successor employer extends an offer of employment to an eligible employee,
9.2 the successor employer shall retain written verification of that offer for at least three years
9.3 from the date the offer was made. The verification shall include the name, address, date of
9.4 hire, and employment occupation classification of each eligible employee.

9.5 (b)(1) A successor employer shall retain each eligible employee hired pursuant to this
9.6 subdivision for no fewer than 90 days following the eligible employee's employment
9.7 commencement date. During this 90-day transition employment period, eligible employees
9.8 shall be employed under the terms and conditions established by the successor employer
9.9 or as required by law. The successor employer shall provide eligible employees with a
9.10 written offer of employment. This offer shall remain open for at least five business days
9.11 from the date of the offer. A successor employer may make simultaneous conditional offers
9.12 of employment to eligible employees, with a final offer of employment conditioned on
9.13 application of the priority system set forth in clause (2).

9.14 (2) If, within the period established in paragraph (a), clause (2), the successor employer
9.15 determines that it requires fewer eligible employees than were required by the incumbent
9.16 employer, the successor employer shall retain eligible employees by seniority within each
9.17 job classification to the extent that comparable job classifications exist.

9.18 (3) During the 90-day transition employment period, the successor employer shall not
9.19 discharge without cause an eligible employee retained pursuant to this subdivision.

9.20 (4) At the end of the 90-day transition employment period, the successor employer shall
9.21 perform a written performance evaluation for each eligible employee retained pursuant to
9.22 this section. If the eligible employee's performance during the 90-day transition employment
9.23 period is satisfactory, the successor employer shall consider offering the eligible employee
9.24 continued employment under the terms and conditions established by the successor employer
9.25 or as required by law. The successor employer shall retain a record of the written performance
9.26 evaluation for a period of no fewer than three years.

9.27 (c)(1) The incumbent employer shall post written notice of the change in control at the
9.28 location of the affected enterprise within five business days following the execution of the
9.29 transfer document. Notice shall remain posted during any closure of the enterprise and for
9.30 six months after the enterprise is open to the public under the successor employer.

9.31 (2) Notice shall include but not be limited to the name of the incumbent employer and
9.32 its contact information, the name of the successor employer and its contact information,
9.33 and the effective date of the change in control.

10.1 (3) Notice shall be posted in a conspicuous place at the enterprise so as to be readily
 10.2 viewed by eligible employees, other employees, and applicants for employment.

10.3 Subd. 3. **Employment protections.** No employer shall refuse to employ, terminate,
 10.4 reduce in compensation, or otherwise take any adverse action against any employee for
 10.5 seeking to enforce their rights under sections 181.990 to 181.993, by any lawful means, for
 10.6 participating in proceedings related to these sections, opposing any practice prescribed by
 10.7 these sections, or otherwise asserting rights under these sections. This subdivision shall also
 10.8 apply to any employee who mistakenly, but in good faith, alleges noncompliance with these
 10.9 sections.

10.10 Subd. 4. **Collective bargaining rights.** (a) All of the provisions in sections 181.990 to
 10.11 181.993 may be waived in a valid collective bargaining agreement, but only if the waiver
 10.12 is explicitly set forth in that agreement in clear and unambiguous terms. Unilateral
 10.13 implementation of terms and conditions of employment by either party to a collective
 10.14 bargaining relationship shall not constitute or be permitted as a waiver of all or any part of
 10.15 the provisions of sections 181.990 to 181.993.

10.16 (b) Nothing in sections 181.990 to 181.993 limits the right of employees to bargain
 10.17 collectively with their employers through representatives of their own choosing to establish
 10.18 retention or rehiring conditions more favorable to the employees than those required by
 10.19 these sections.

10.20 Sec. 3. **[181.992] ENFORCEMENT AND RULEMAKING.**

10.21 Subdivision 1. **Enforcement.** (a) An employee, including any eligible employee, may
 10.22 file a complaint with the Department of Labor and Industry, Labor Standards and
 10.23 Apprenticeship Division, against the employer, or in the case of a violation of section
 10.24 181.991, subdivision 2, incumbent employer or the successor employer, for violations of
 10.25 section 181.991, and may be awarded any or all of the following, as appropriate:

10.26 (1) hiring and reinstatement rights pursuant to section 181.991, with the 90-day transition
 10.27 employment period not commencing until the eligible employee's employment
 10.28 commencement date with the successor employer;

10.29 (2) front pay or back pay for each day during which the violation continues, which shall
 10.30 be calculated at a rate of compensation not less than the highest of any of the following
 10.31 rates:

10.32 (i) the average regular rate of pay received by the employee or eligible employee during
 10.33 the last three years of that employee's employment in the same occupation classification;

11.1 (ii) the most recent regular rate received by the employee or eligible employee while
11.2 employed by the employer, incumbent employer, or successor employer; or

11.3 (iii) the regular rate received by the individual in the position during the time that the
11.4 employee or eligible employee should have been employed; or

11.5 (3) value of the benefits the employee or eligible employee would have received under
11.6 the employer or successor employer's benefit plan.

11.7 (b) The Labor Standards and Apprenticeship Division shall investigate complaints filed
11.8 under this section, and if an employer, incumbent employer, or successor employer is found
11.9 to have violated section 181.991, the division shall determine and issue an award to an
11.10 employee pursuant to paragraph (a).

11.11 (c) No criminal penalties shall be imposed for a violation of section 181.991.

11.12 (d) This subdivision shall not be construed to limit a discharged employee or eligible
11.13 employee's right to pursue any other remedies available to an employee in law or equity.

11.14 Subd. 2. **Rulemaking.** The commissioner of labor and industry may adopt and enforce
11.15 rules and regulations, and issue determinations and interpretations, consistent with and
11.16 necessary for the implementation of sections 181.991 to 181.993. Those rules and regulations,
11.17 determinations, and interpretations shall have the force of law and may be relied upon by
11.18 employers, employees, and other persons to determine their rights and responsibilities under
11.19 these sections.

11.20 Subd. 3. **Interaction with local law.** Nothing in this section shall prohibit a local
11.21 government agency from enacting ordinances that impose greater standards than, or establish
11.22 additional enforcement provisions to, those prescribed by this section.

11.23 Sec. 4. **[181.993] CITATION.**

11.24 Sections 181.990 to 181.993 may be cited as the "Emergency Rehire and Retention
11.25 Law."

11.26 Sec. 5. **EFFECTIVE DATES.**

11.27 Sections 1 to 4 are effective the day following final enactment. On or before December
11.28 31, 2022, the commissioner of labor and industry shall report to the legislature on the
11.29 effectiveness of this chapter in promoting employment stability and shall advise the
11.30 legislature on the need for further action.

ARTICLE 4

ESSENTIAL WORKERS EMERGENCY LEAVE

Section 1. ESSENTIAL WORKERS EMERGENCY LEAVE ACT.

Subdivision 1. Definitions. (a) For the purposes of this section, the following terms have the meanings given them.

(b) "Child" has the meaning given in United States Code, title 29, section 2611(12).

(c) "Emergency paid sick leave" means paid leave time provided under this section for a reason provided in subdivision 2.

(d) "Essential worker" means a person who performs services for hire for an employer for one day or more, and who:

(1) qualifies for a Critical Sector exemption under paragraph 6 of Executive Order 20-48 or any amendments to or replacements thereof;

(2) is unable to work or telework due to a reason provided in subdivision 2; and

(3) is not receiving workers' compensation benefits, unemployment insurance benefits, or other benefits under state law or federal law or an executive order related to COVID-19 that wholly compensates the employee for the period of time the employee is unable to work or telework due to a reason provided in subdivision 2.

(e) "Employer" means a person who employs one or more essential workers, including a corporation, partnership, limited liability company, association, group of persons, state, county, town, city, school district, or governmental subdivision, that has elected to exclude such employees from emergency paid sick leave under the federal Families First Coronavirus Response Act, Public Law 116-127.

(f) "Health care provider" has the meaning given in Code of Federal Regulations, title 29, section 826.30(c).

(g) "Retaliatory personnel action" means any form of intimidation, threat, reprisal, harassment, discrimination, or adverse employment action, including discipline, discharge, suspension, transfer, or reassignment to a lesser position in terms of job classification, job security, or other condition of employment; reduction in pay or hours or denial of additional hours; the accumulation of points under an attendance point system; informing another employer that the person has engaged in activities protected by this section; or reporting or threatening to report the actual or suspected citizenship or immigration status of an employee, former employee, or family member of an employee to a federal, state, or local agency.

13.1 Subd. 2. **Emergency paid sick leave.** An employer shall provide emergency paid sick
13.2 leave to an employee who is unable to work or telework due to any of the following reasons:

13.3 (1) the employee is subject to a federal, state, or local quarantine or isolation order related
13.4 to COVID-19;

13.5 (2) the employee has been advised by a health care provider to self-quarantine due to
13.6 concerns related to COVID-19;

13.7 (3) the employee is experiencing symptoms of COVID-19 and seeking a medical
13.8 diagnosis;

13.9 (4) the employee is caring for an individual who is subject to an order as described in
13.10 clause (1) or has been advised as described in clause (2);

13.11 (5) the employee is caring for a child of the employee if the school or place of care of
13.12 the child has been closed, or the child care provider of the child is unavailable due to
13.13 COVID-19 precautions; or

13.14 (6) the employee is experiencing any other substantially similar condition specified by
13.15 the secretary of the Department of Health and Human Services in consultation with the
13.16 secretary of the Department of the Treasury and the secretary of the Department of Labor.

13.17 Subd. 3. **Duration and use of leave.** (a) An employee shall be entitled to emergency
13.18 paid sick leave as provided under this section for the following number of hours:

13.19 (1) up to 100 hours for an employee who:

13.20 (i) the employer considers to work full time;

13.21 (ii) works or was scheduled to work on average what are considered full-time hours by
13.22 the employer, including pursuant to any applicable collective bargaining agreement; or

13.23 (iii) works or was scheduled to work at least 40 hours per week for the employer on
13.24 average over a two-week period;

13.25 (2) a number of hours equal to 1.25 times the number of hours that an employee works
13.26 for the employer on average over a two-week period for any employee who:

13.27 (i) the employer considers to work part time;

13.28 (ii) works or was scheduled to work on average what are considered part-time hours by
13.29 the employer, including pursuant to any applicable collective bargaining agreement; or

13.30 (iii) works or was scheduled to work fewer than 40 hours per week for the employer on
13.31 average over a two-week period; or

14.1 (3) 17.5 times the average number of hours an employee worked per day for the employer
14.2 for the previous six months, or for the entire period the employee has worked for the
14.3 employer, whichever is shorter, for an employee who works variable hours and who is not
14.4 covered by clause (1) or (2).

14.5 (b) Leave under this section shall be available for use by an employee for a reason listed
14.6 in subdivision 2 beginning the day following final enactment and may be used intermittently,
14.7 provided that any amount of leave taken under this section shall end with the employee's
14.8 next scheduled work shift immediately following the termination of the employee's need
14.9 for leave under a reason provided in subdivision 2.

14.10 (c) After the first workday or portion thereof that an employee receives leave under this
14.11 section, an employer may require the employee to follow reasonable notice procedures to
14.12 continue receiving leave.

14.13 (d) Leave under this section expires 30 days after a peacetime emergency declared by
14.14 the governor in an executive order that relates to the infectious disease known as COVID-19
14.15 is terminated or rescinded.

14.16 Subd. 4. **Amount of compensation.** (a) An employee shall receive compensation for
14.17 each hour of emergency paid sick leave received under this section in an amount that shall
14.18 be the greater of:

14.19 (1) the employee's regular rate of pay for the employee's last pay period, including
14.20 pursuant to any collective bargaining agreement that applies;

14.21 (2) the state minimum wage in effect under Minnesota Statutes, section 177.24; or

14.22 (3) the local minimum wage to which the employee is entitled, except that in no event
14.23 shall emergency paid sick time provided under this section exceed \$6,388 in the aggregate.

14.24 (b) Unused or remaining leave under this section shall not carry over past the expiration
14.25 of this section.

14.26 (c) Nothing in this section shall be construed to require financial or other reimbursement
14.27 to an employee from an employer upon the employee's termination, resignation, retirement,
14.28 or other separation from employment for emergency paid sick time under this section that
14.29 has not been used by the employee.

14.30 Subd. 5. **Relationship to other leave.** (a) Except as provided in paragraph (c), emergency
14.31 paid sick leave under this section shall be in addition to any paid or unpaid leave provided
14.32 to an employee by an employer under a collective bargaining agreement, negotiated
14.33 agreement, contract, or any other employment policy.

15.1 (b) An employee may use leave provided under this section first, and except as provided
15.2 in paragraph (c), an employer shall not require an employee to use other paid or unpaid
15.3 leave provided by the employer before the employee uses the leave provided under this
15.4 section or in lieu of the leave provided under this section.

15.5 (c) Notwithstanding paragraphs (a) and (b), if an employer has already provided an
15.6 employee with additional paid leave for any reason provided in subdivision 2, and the leave
15.7 is in addition to the regular amount of paid leave provided by the employer and would
15.8 compensate the employee in an amount equal to or greater than the amount of compensation
15.9 provided under this section, the employer may count the hours of other additional paid leave
15.10 toward the total number of hours of emergency paid sick leave required under this section.

15.11 (d) Nothing in this section shall be deemed:

15.12 (1) to limit the rights of a public employee or employer under any law, rule, regulation,
15.13 or collectively negotiated agreement, or the rights and benefits that accrue to employees
15.14 through collective bargaining agreements, or the rights of employees with respect to any
15.15 other employment benefits; or

15.16 (2) to prohibit any personnel action that otherwise would have been taken regardless of
15.17 a request to use, or use of, any leave provided by this section.

15.18 (e) Nothing in this section shall prevent an employer from providing, or the parties to a
15.19 collective bargaining agreement from agreeing to, leave benefits that meet or exceed and
15.20 do not otherwise conflict with the requirements for emergency paid sick leave under this
15.21 section.

15.22 Subd. 6. **Requirements and enforcement.** (a) An employer shall provide notice to
15.23 employees of the requirements for emergency paid sick leave provided under this section.

15.24 (b) An employer shall not take any retaliatory personnel action against an employee for
15.25 requesting or obtaining emergency paid sick leave under this section or for bringing a
15.26 complaint related to this section, including a proceeding that seeks enforcement of this
15.27 section.

15.28 (c) In addition to any remedies otherwise provided by law, an employee seeking redress
15.29 for a violation of this section may bring a civil action in district court to recover any damages
15.30 recoverable at law, together with costs and disbursements, including reasonable attorney
15.31 fees. An employer who violates this section may be liable for compensatory damages,
15.32 injunctive relief, or other equitable relief as determined by the district court.

- 16.1 **EFFECTIVE DATE.** This section is effective the day following final enactment and
16.2 applies retroactively to all employees covered by this section as of March 13, 2020, and
16.3 sunsets 30 days after a peacetime emergency declared by the governor in an executive order
16.4 that relates to the infectious disease known as COVID-19 is terminated or rescinded.