



Families First Act - What is included that Impacts Small Business & our Employees

On March 18, 2020, the U.S. Senate passed, and the President signed, the Families First Coronavirus Response Act, with wide bi-partisan support in response to the growing coronavirus emergency in the United States. The bill contains several important provisions to address the crisis including Unemployment Insurance (UI), food security and emergency sick and family leave programs.

To gain broad support, the paid leave policies were amended to include several carve-outs, and limitations on use. Main Street Alliance is engaged to make this bill fully workable for small businesses and their employees. Not only do we need to shore up rapid reimbursement for small business owners offering emergency paid leave, but work for permanent paid sick day and leave programs.

Further efforts like the PAID Act, sponsored by Senators Murray and Gillibrand, would do both — swiftly reimburse employers for all paid sick days and paid leave in 2020 and 2021, and establish national programs for earned sick time and a self-sustaining family and medical leave insurance program for all workers that are critical supports for to put in place for any next crisis.

*This memo outlines key provisions that will impact small businesses in the **Family First Act**.*

Emergency Sick Leave

Beginning 15 days after the bill is enacted, all employers* (with under 500 employees) are required to provide emergency sick leave to all full and part time employees for qualified leave for needs related to coronavirus, without any waiting period.

*** *Small Business Exemptions:*** The Secretary of Labor has authority to issue regulations for good cause to: exempt businesses with fewer than 50 employees from the emergency sick leave's requirements when the imposition of such requirements would jeopardize the business' viability.

Length of Leave: Full time employees are eligible for 80 hours sick leave and Part time employees will be entitled to the number of hours that they work, on average, over a 2-week period.

Purpose: Employees are eligible for sick leave to obtain care and/or to comply with a public official or provider self-isolation recommendation. Employees are also eligible for sick leave to care for and/or assist a family member similarly impacted and/or if their child's school or day care is unavailable due to coronavirus.

Pay: For Employees using emergency paid sick time for their own care or treatment, employers must pay their full regular wage, however wages are capped and shall not exceed \$511 per day or \$5,110 for the full 10 days, Employees *caring for a family member are eligible for 2/3 pay* however wages are capped at \$200 per day and \$2,000 in the aggregate for the 10 days.

Existing Policies: Employers with existing paid sick policies may not change them and must add this provision in addition to existing policies.

Family Definition: The bill defines “family member” to include a worker’s child, parent, spouse, or domestic partner. Family also includes a sibling, employee’s next of kin, person for whom the worker is next of kin, grandparent, or grandchild **but only if that person** is a pregnant woman, senior citizen, individual with a disability or has access or functional needs.

Employer Refundable quarterly tax credit: Employers will qualify for refundable tax credit for wages paid under the emergency sick leave provision of up to \$511 per day per employee for personal sick leave, and not exceed \$200 for any day for an employee taking leave to be a caregiver for a family member. Current legislation has this a quarterly refundable tax credit against payroll tax.

Self-employed Eligibility and refundable quarterly tax credit: the bill provides a tax credit to certain self-employed individuals in an amount equal to 100% of a “sick leave equivalent amount” (or 67% for the family care provisions where only 2/3 of compensation is available.)

Emergency Family and Medical Leave Expansion Act

Beginning 15 days after the bill is enacted, all employers** (with under 500 employees) will be required under the amended federal Family and Medical Leave Act (FMLA) to provide emergency leave to all full and part time employees (who have been employed for 30 days) for qualified leave for needs related to coronavirus.

**** Small Business Exemptions:** The Secretary of Labor has authority to issue regulations for good cause to: exempt businesses with fewer than 50 employees from the emergency family and medical leave expansion’s requirements when the imposition of such requirements would jeopardize the business’ viability.

Length of Leave: Employees are eligible for up to 12 weeks leave.

Purpose of Leave: Workers can access this public health emergency leave only if they are unable to work (or telework) due to a need for leave to care for a son or daughter under 18 years of age if the school or place of care has been closed, or the child care provider of the son or daughter is unavailable, due to a public health emergency related to coronavirus (declared by a federal, state, or local authority). The FMLA’s “son or daughter” definition would apply, which includes a

biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis (in loco parentis refers to one who is acting and intending to act as a parent, with no requirement of a legal or biological relationship).

Pay: The first 10 days for which an employee takes leave may consist of unpaid leave. An employee may elect -- but is not required -- to substitute any accrued vacation leave, personal leave, or medical or sick leave. *Leave must be paid at an amount not less than 2/3 of the employee's regular rate of pay and based on the number of hours the employee would otherwise normally be scheduled to work. However, paid leave under this provision may not exceed \$200 per day and \$10,000 in the aggregate.*

Job Protection: *Employees who take public health emergency leave under the FMLA expansion are entitled upon return from leave to be restored to their job position or to an equivalent position. However, full job protections for employers with 25 or fewer employees waived if certain circumstances are met.*

Health Worker Exemption: An employer of a worker who is a health care provider or an emergency responder may elect to exclude that worker from the public health emergency leave.

Refundable tax credit for Paid Leave by quarter: In general, Employers will qualify for a refundable tax credit for wages paid under the emergency leave provision. The amount of qualified family leave wages shall not exceed \$200 per day per employee of wages paid or a total of \$10,000 per employee on qualified leave. Any wages required to be paid by the emergency paid sick leave and emergency family and medical leave expansion provisions of this bill are not considered wages for employer taxation purposes under section 3111(a) of the Internal Revenue Code.

Refundable self-employment tax credit. Eligible self-employed individuals may also be eligible for 100 percent of the qualified family leave equivalent to the amount lesser of the average daily self-employment income of the individual for the taxable year, or (ii) \$200 per day as a credit against self-employment tax.

Enhanced Unemployment Insurance

Emergency Transfers \$1 billion in 2020 for emergency grants to states for activities related to processing and paying unemployment insurance (UI) benefits, under certain conditions.

Temporary Assistance for States with Advances. This section provides states with access to interest-free loans to help pay regular UI benefits through December 31, 2020, if needed.

Technical Assistance. The Secretary of Labor provides technical assistance to states that want to set up work-sharing programs, in which employers reduce hours instead of laying employees off, and then employees receive partial unemployment benefits to offset the wage loss.

Full Federal Funding of Extended Unemployment Compensation for a Limited Period. For states that experience an increase of 10 percent or more in their unemployment rate (over the previous year) provides 100 percent federal funding for Extended Benefits, which normally require 50 percent of funding to come from states. Extended Benefits are triggered when unemployment is high in a state and provide up to an additional 26 weeks after regular UI benefits (usually 26 weeks) are exhausted.

Strengthened food security initiatives, including SNAP, student meals, seniors nutrition and food banks;

Increased federal funds for Medicaid, as states face increased costs.