

196.4 **ARTICLE 12**

196.5 **ESSENTIAL WORKERS EMERGENCY LEAVE**

196.6 Section 1. **ESSENTIAL WORKERS EMERGENCY LEAVE.**

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

196.9 (b) "Airport service provider" means a business other than an air carrier certificated by
196.10 the Federal Aviation Administration, that performs, under contract with a passenger air
196.11 carrier, airport facility management, or airport authority, functions on the property of the
196.12 airport that are directly related to the air transportation of persons, property, or mail, including
196.13 but not limited to:

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

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

196.16 (3) security;

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

196.18 (5) ground-handling of aircraft;

196.19 (6) aircraft cleaning and sanitization functions; or

196.20 (7) airport authority.

196.21 (c) "Child" means a biological, adopted, or foster child, stepchild, legal ward, or child
196.22 for whom the essential worker is a legal guardian.

196.23 (d) "Emergency paid sick leave" means paid leave time provided under this section for
196.24 a reason provided in subdivision 2 that is not:

196.25 (1) fully compensated through workers' compensation benefits or unemployment
196.26 insurance benefits; or

196.27 (2) guaranteed to essential workers through other paid sick leave benefits under state
196.28 law or federal law or an executive order related to COVID-19.

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

197.1 (1) is an emergency responder or health care provider as defined in Code of Federal
197.2 Regulations, title 29, section 826.30(c), including but not limited to nurses, peace officers,
197.3 firefighters, correctional institution personnel, emergency medical services personnel, and
197.4 social workers;

197.5 (2) is a licensed or unlicensed employee employed by or under contract with:

197.6 (i) a hospital, boarding care home, or outpatient surgical center licensed under Minnesota
197.7 Statutes, sections 144.50 to 144.56;

197.8 (ii) a nursing home licensed under Minnesota Statutes, sections 144A.01 to 144A.162;

197.9 (iii) a housing with services establishment registered under Minnesota Statutes, section
197.10 144D.02, and operating under Minnesota Statutes, sections 144G.01 to 144G.07;

197.11 (iv) the arranged home care provider of an establishment specified in item (iii);

197.12 (v) an unlicensed health care clinic; or

197.13 (vi) an unlicensed office of a physician or advanced practice registered nurse;

197.14 (3) is a public school employee;

197.15 (4) works for an airport service provider; or

197.16 (5) works for a private employer performing work in the following sectors:

197.17 (i) building service, including janitorial, building maintenance, and security services;

197.18 (ii) child care;

197.19 (iii) food service, including food manufacture, production, processing, preparation, sale,
197.20 and delivery;

197.21 (iv) hotel accommodations;

197.22 (v) manufacturing; or

197.23 (vi) retail, including but not limited to sales, fulfillment, distribution, and delivery.

197.24 (f) "Employer" means a person who employs one or more essential workers, including
197.25 but not limited to a corporation, partnership, limited liability company, association, group
197.26 of persons, hospital, state, county, town, city, school district, or governmental subdivision,
197.27 excluding the federal government.

197.28 (g) "Retaliatory personnel action" means any form of intimidation, threat, reprisal,
197.29 harassment, discrimination, or adverse employment action, including discipline, discharge,
197.30 suspension, transfer, or reassignment to a lesser position in terms of job classification, job

198.1 security, or other condition of employment; reduction in pay or hours or denial of additional
198.2 hours; the accumulation of points under an attendance point system; informing another
198.3 employer that the person has engaged in activities protected by this section; or reporting or
198.4 threatening to report the actual or suspected citizenship or immigration status of an employee,
198.5 former employee, or family member of an employee to a federal, state, or local agency.

198.6 Subd. 2. **Emergency paid sick leave.** An employer shall provide emergency paid sick
198.7 leave to an essential worker who is unable to work or telework due to any of the following
198.8 reasons:

198.9 (1) the essential worker is subject to a federal, state, or local quarantine or isolation order
198.10 related to COVID-19;

198.11 (2) the essential worker has been advised by a health care provider to self-quarantine
198.12 due to concerns related to COVID-19;

198.13 (3) the essential worker is experiencing symptoms of COVID-19 and seeking a medical
198.14 diagnosis;

198.15 (4) the essential worker is seeking or awaiting the results of a diagnostic test for, or a
198.16 medical diagnosis of, COVID-19 and the essential worker has been exposed to COVID-19
198.17 or the essential worker's employer has requested a test or diagnosis;

198.18 (5) the essential worker is obtaining an immunization related to COVID-19 or recovering
198.19 from an injury, disability, illness, or condition related to the immunization;

198.20 (6) the essential worker is caring for an individual who is subject to an order as described
198.21 in clause (1) or has been advised as described in clause (2); or

198.22 (7) the essential worker is caring for a child of the essential worker if the school or place
198.23 of care of the child has been closed, or the child care provider of the child is unavailable
198.24 due to COVID-19 precautions.

198.25 Subd. 3. **Duration and use of leave.** (a) An essential worker is entitled to emergency
198.26 paid sick leave as provided under this section for the following number of hours through
198.27 March 31, 2021, and an equal number of hours for the period beginning April 1, 2021:

198.28 (1) up to 80 hours for an essential worker who:

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

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

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

199.3 (2) a number of hours equal to the number of hours that an essential worker works for
199.4 the employer on average over a two-week period for any essential worker who:

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

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

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

199.10 (3) 14 times the average number of hours an essential worker worked per day for the
199.11 employer for the previous six months, or for the entire period the essential worker has
199.12 worked for the employer, whichever is shorter, for an essential worker who works variable
199.13 hours and who is not covered by clause (1) or (2).

199.14 (b) Leave under this section is available for use by an essential worker for a reason listed
199.15 in subdivision 2 beginning the day following final enactment and may be used intermittently,
199.16 provided that any amount of leave taken under this section ends with the essential worker's
199.17 next scheduled work shift immediately following the termination of the essential worker's
199.18 need for leave under a reason provided in subdivision 2.

199.19 (c) After the first workday or portion thereof that an essential worker receives leave
199.20 under this section, an employer may require the essential worker to follow reasonable notice
199.21 procedures to continue receiving leave.

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

199.25 Subd. 4. **Amount of compensation.** (a) An essential worker shall receive compensation
199.26 for each hour of emergency paid sick leave received under this section in an amount that is
199.27 the greater of:

199.28 (1) the essential worker's regular rate of pay for the essential worker's last pay period,
199.29 including pursuant to any collective bargaining agreement that applies;

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

199.31 (3) the local minimum wage to which the essential worker is entitled.

200.1 (b) In no event shall emergency paid sick time provided under this section exceed \$511
200.2 per day, nor shall emergency paid sick time provided under this section exceed \$5,110 in
200.3 the aggregate for the period ending March 31, 2021, or \$5,110 in the aggregate for the period
200.4 beginning April 1, 2021.

200.5 (c) Unused or remaining leave under this section shall not carry over past the expiration
200.6 of this section.

200.7 (d) Nothing in this section shall be construed to require financial or other reimbursement
200.8 to an essential worker from an employer upon the essential worker's termination, resignation,
200.9 retirement, or other separation from employment for emergency paid sick time under this
200.10 section that has not been used by the essential worker.

200.11 Subd. 5. **Relationship to other leave.** (a) Except as provided in paragraph (c), emergency
200.12 paid sick leave under this section is in addition to any paid or unpaid leave provided to an
200.13 essential worker by an employer under a collective bargaining agreement, negotiated
200.14 agreement, contract, or any other employment policy.

200.15 (b) An essential worker may use leave provided under this section first, and except as
200.16 provided in paragraph (c), an employer shall not require an essential worker to use other
200.17 paid or unpaid leave provided by the employer before the essential worker uses the leave
200.18 provided under this section or in lieu of the leave provided under this section.

200.19 (c) Notwithstanding paragraphs (a) and (b), if an employer has already provided an
200.20 essential worker with additional paid leave for any reason provided in subdivision 2, and
200.21 the leave was in addition to the regular amount of paid leave provided by the employer and
200.22 compensated the essential worker in an amount equal to or greater than the amount of
200.23 compensation provided under this section, the employer may credit the other additional
200.24 paid leave toward the total number of hours of emergency paid sick leave required under
200.25 this section; provided, however, that if the other paid leave compensated the essential worker
200.26 at an amount less than the amount of compensation provided under this section, the employer
200.27 is required to comply with this section to the extent of the deficiency to receive the credit
200.28 under this paragraph.

200.29 (d) An employer shall provide notice to essential workers of the requirements for
200.30 emergency paid sick leave provided under this section.

200.31 (e) Nothing in this section is deemed:

200.32 (1) to limit the rights of an essential worker or employer under any law, rule, regulation,
200.33 or collectively negotiated agreement, or the rights and benefits that accrue to essential

201.1 workers through collective bargaining agreements, or the rights of essential workers with
201.2 respect to any other employment benefits; or

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

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

201.9 Subd. 6. **Nursing home reimbursement for emergency paid sick leave**
201.10 **benefits.** Nursing homes reimbursed under Minnesota Statutes, chapter 256R, may apply
201.11 for reimbursement for emergency paid sick leave costs described in this section from the
201.12 commissioner of human services under Minnesota Statutes, section 12A.10, subdivision 1,
201.13 for expenses incurred. The emergency paid sick leave expenses under this section are not
201.14 allowable costs under Minnesota Statutes, chapter 256R.

201.15 Subd. 7. **Requirements and enforcement.** (a) An employer shall not take any retaliatory
201.16 personnel action against an essential worker for requesting or obtaining emergency paid
201.17 sick leave under this section or for bringing a complaint related to this section, including a
201.18 proceeding that seeks enforcement of this section.

201.19 (b) The Department of Labor and Industry shall enforce this section. The commissioner
201.20 has the authority provided under Minnesota Statutes, section 177.27, subdivision 4, including
201.21 the authority to issue an order requiring an employer to comply with this section. The
201.22 commissioner may investigate complaints of violations of this section as necessary to
201.23 determine whether a violation has occurred. If the commissioner finds that an employer has
201.24 violated this section, the commissioner shall fine the employer up to \$1,000 for each willful
201.25 violation for each essential worker.

201.26 **EFFECTIVE DATE.** This section is effective:

201.27 (1) the day following final enactment for essential workers hired by an employer on or
201.28 after the day following final enactment of this section; and

201.29 (2) retroactively from March 13, 2020, for essential workers who were employed on or
201.30 after March 13, 2020, and are currently employed as of the day following final enactment
201.31 or May 17, 2021, whichever is earlier.

201.32 Subdivisions 1 to 6 sunset on September 30, 2021, or 30 days after a peacetime emergency
201.33 declared by the governor in an executive order that relates to the infectious disease known

- 202.1 as COVID-19 is terminated or rescinded, whichever is later. Subdivision 7 sunsets June 30,
- 202.2 2023.