

HOUSE BILL NO. 5772

May 19, 2020, Introduced by Rep. Tyrone Carter 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~~**labor** and



1 ~~regulatory affairs.~~**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 essential employee" means an eligible employee**
10 **that is any of the following:**

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

13 (ii) **A full-time, part-time, or volunteer firefighter.**

14 (iii) **A state correctional officer as that term is defined in**
15 **section 2 of the correctional officers' training act of 1982, 1982**
16 **PA 415, MCL 791.502.**

17 (iv) **A local corrections officer as that term is defined in**
18 **section 2 of the local corrections officers training act, 2003 PA**
19 **125, MCL 791.532.**

20 (v) **A physician as that term is defined in section 17001 of**
21 **the public health code, 1978 PA 368, MCL 333.17001.**

22 (vi) **A respiratory therapist as that term is defined in section**
23 **18701 of the public health code, 1978 PA 368, MCL 333.18701.**

24 (vii) **An emergency medical services personnel as that term is**
25 **defined in section 20904 of the public health code, 1978 PA 368,**
26 **MCL 333.20904.**

27 (viii) **Licensed or registered under, or otherwise authorized to**
28 **engage in the practice of nursing or practice of nursing as a**



1 licensed practical nurse under, part 172 of the public health code,
2 1978 PA 368, MCL 333.17201 to 333.17242.

3 (ix) Employed by a retail grocery as that term is defined in
4 section 1111 of the food law, 2000 PA 92, MCL 289.1111.

5 (x) Employed by a company that transports goods, on reasonable
6 request, on regular routes and at set rates.

7 (g) ~~(f)~~—"Employer" means any person, firm, business,
8 educational institution, nonprofit agency, corporation, limited
9 liability company, government entity, or other entity that employs
10 50 or more individuals. Employer does not include the United States
11 government, another state, or a political subdivision of another
12 state.

13 (h) ~~(g)~~—"Family member" includes all of the following:

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

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

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

23 (iv) A grandparent.

24 (v) A grandchild.

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

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

28 (j) ~~(i)~~—"Paid medical leave" means time off from work that is
29 provided by an employer to an eligible employee that can be used



1 for the purposes described in section 4(1).

2 (k) ~~(j)~~ "Sexual assault" means any act that violates section
3 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA
4 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

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

12 (a) The eligible essential employee contracts the infectious
13 disease.

14 (b) The eligible essential employee self-isolates or is
15 quarantined pursuant to a directive from his or her employer or
16 treating physician or a local, state, or federal agency.

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

20 (a) Require an eligible essential employee to use paid leave
21 accrued under section 3 for paid leave described in subsection (1).

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

