

116TH CONGRESS
2^D SESSION

H. R. 6201

AN ACT

Making emergency supplemental appropriations for the fiscal year ending September 30, 2020, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Families First
3 Coronavirus Response Act”.

4 **SEC. 2. TABLE OF CONTENTS.**

5 The table of contents is as follows:

DIVISION A—SECOND CORONAVIRUS PREPAREDNESS AND
RESPONSE SUPPLEMENTAL APPROPRIATIONS ACT, 2020

DIVISION B—NUTRITION WAIVERS

DIVISION C—EMERGENCY FAMILY AND MEDICAL LEAVE
EXPANSION ACT

DIVISION D—EMERGENCY UNEMPLOYMENT INSURANCE
STABILIZATION AND ACCESS ACT OF 2020

DIVISION E—EMERGENCY PAID SICK LEAVE ACT

DIVISION F—HEALTH PROVISIONS

DIVISION G—TAX CREDITS FOR PAID SICK AND PAID FAMILY
AND MEDICAL LEAVE

DIVISION H—BUDGETARY EFFECTS

6 **SEC. 3. REFERENCES.**

7 Except as expressly provided otherwise, any reference
8 to “this Act” contained in any division of this Act shall
9 be treated as referring only to the provisions of that divi-
10 sion.

11 **DIVISION A—SECOND CORONAVIRUS PRE-**
12 **PAREDNESS AND RESPONSE SUPPLE-**
13 **MENTAL APPROPRIATIONS ACT, 2020**

14 The following sums are hereby appropriated, out of
15 any money in the Treasury not otherwise appropriated,
16 for the fiscal year ending September 30, 2020, and for
17 other purposes, namely:

1 tion of the measures taken to address the food security
2 needs of affected populations during the emergency, any
3 information or data supporting State agency requests, any
4 additional measures that States requested that were not
5 approved, and recommendations for changes to the Sec-
6 retary’s authority under the Food and Nutrition Act of
7 2008 to assist the Secretary and States and localities in
8 preparations for any future health emergencies.

9 **DIVISION C—EMERGENCY FAM-**
10 **ILY AND MEDICAL LEAVE EX-**
11 **PANSION ACT**

12 **SEC. 3101. SHORT TITLE.**

13 This Act may be cited as “Emergency Family and
14 Medical Leave Expansion Act”.

15 **SEC. 3102. AMENDMENTS TO THE FAMILY AND MEDICAL**
16 **LEAVE ACT OF 1993.**

17 (a) PUBLIC HEALTH EMERGENCY LEAVE.—

18 (1) IN GENERAL.—Section 102(a)(1) of the
19 Family and Medical Leave Act of 1993 (29 U.S.C.
20 2612(a)(1)) is amended by adding at the end the
21 following:

22 “(F) During the period beginning on the
23 date the Emergency Family and Medical Leave
24 Expansion Act takes effect, and ending on De-
25 cember 31, 2020, because of a qualifying need

1 related to a public health emergency in accord-
2 ance with section 110.”.

3 (2) PAID LEAVE REQUIREMENT.—Section
4 102(c) of the Family and Medical Leave Act of 1993
5 (29 U.S.C. 2612(c)) is amended by striking “under
6 subsection (a)” and inserting “under subsection (a)
7 (other than certain periods of leave under subsection
8 (a)(1)(F))”.

9 (b) REQUIREMENTS.—Title I of the Family and Med-
10 ical Leave Act of 1993 (29 U.S.C. 2611 et seq.) is amend-
11 ed by adding at the end the following:

12 **“SEC. 110. PUBLIC HEALTH EMERGENCY LEAVE.**

13 “(a) DEFINITIONS.—The following shall apply with
14 respect to leave under section 102(a)(1)(F):

15 “(1) APPLICATION OF CERTAIN TERMS.—The
16 definitions in section 101 shall apply, except as fol-
17 lows:

18 “(A) ELIGIBLE EMPLOYEE.—In lieu of the
19 definition in sections 101(2)(A) and
20 101(2)(B)(ii), the term ‘eligible employee’
21 means an employee who has been employed for
22 at least 30 calendar days by the employer with
23 respect to whom leave is requested under sec-
24 tion 102(a)(1)(F).

1 “(B) EMPLOYER THRESHOLD.—Section
2 101(4)(A)(i) shall be applied by substituting
3 ‘fewer than 500 employees’ for ‘50 or more em-
4 ployees for each working day during each of 20
5 or more calendar workweeks in the current or
6 preceding calendar year’.

7 “(2) ADDITIONAL DEFINITIONS.—In addition to
8 the definitions described in paragraph (1), the fol-
9 lowing definitions shall apply with respect to leave
10 under section 102(a)(1)(F):

11 “(A) QUALIFYING NEED RELATED TO A
12 PUBLIC HEALTH EMERGENCY.—The term
13 ‘qualifying need related to a public health emer-
14 gency’, with respect to leave, means the em-
15 ployee is unable to work (or telework) due to a
16 need for leave to care for the son or daughter
17 under 18 years of age of such employee if the
18 school or place of care has been closed, or the
19 child care provider of such son or daughter is
20 unavailable, due to a public health emergency.

21 “(B) PUBLIC HEALTH EMERGENCY.—The
22 term ‘public health emergency’ means an emer-
23 gency with respect to COVID-19 declared by a
24 Federal, State, or local authority.

1 “(C) CHILD CARE PROVIDER.—The term
2 ‘child care provider’ means a provider who re-
3 ceives compensation for providing child care
4 services on a regular basis, including an ‘eligible
5 child care provider’ (as defined in section 658P
6 of the Child Care and Development Block
7 Grant Act of 1990 (42 U.S.C. 9858n)).

8 “(D) SCHOOL.—The term ‘school’ means
9 an ‘elementary school’ or ‘secondary school’ as
10 such terms are defined in section 8101 of the
11 Elementary and Secondary Education Act of
12 1965 (20 U.S.C. 7801).

13 “(3) REGULATORY AUTHORITIES.—The Sec-
14 retary of Labor shall have the authority to issue reg-
15 ulations for good cause under sections 553(b)(B)
16 and 553(d)(A) of title 5, United States Code—

17 “(A) to exclude certain health care pro-
18 viders and emergency responders from the defi-
19 nition of eligible employee under section
20 110(a)(1)(A); and

21 “(B) to exempt small businesses with fewer
22 than 50 employees from the requirements of
23 section 102(a)(1)(F) when the imposition of
24 such requirements would jeopardize the viability
25 of the business as a going concern.

1 “(b) RELATIONSHIP TO PAID LEAVE.—

2 “(1) UNPAID LEAVE FOR INITIAL 10 DAYS.—

3 “(A) IN GENERAL.—The first 10 days for
4 which an employee takes leave under section
5 102(a)(1)(F) may consist of unpaid leave.

6 “(B) EMPLOYEE ELECTION.—An employee
7 may elect to substitute any accrued vacation
8 leave, personal leave, or medical or sick leave
9 for unpaid leave under section 102(a)(1)(F) in
10 accordance with section 102(d)(2)(B).

11 “(2) PAID LEAVE FOR SUBSEQUENT DAYS.—

12 “(A) IN GENERAL.—An employer shall
13 provide paid leave for each day of leave under
14 section 102(a)(1)(F) that an employee takes
15 after taking leave under such section for 10
16 days.

17 “(B) CALCULATION.—

18 “(i) IN GENERAL.—Subject to clause
19 (ii), paid leave under subparagraph (A) for
20 an employee shall be calculated based on—

21 “(I) an amount that is not less
22 than two-thirds of an employee’s reg-
23 ular rate of pay (as determined under
24 section 7(e) of the Fair Labor Stand-

1 ards Act of 1938 (29 U.S.C. 207(e));
2 and

3 “(II) the number of hours the
4 employee would otherwise be normally
5 scheduled to work (or the number of
6 hours calculated under subparagraph
7 (C)).

8 “(ii) CLARIFICATION.—In no event
9 shall such paid leave exceed \$200 per day
10 and \$10,000 in the aggregate.

11 “(C) VARYING SCHEDULE HOURS CAL-
12 CULATION.—In the case of an employee whose
13 schedule varies from week to week to such an
14 extent that an employer is unable to determine
15 with certainty the number of hours the em-
16 ployee would have worked if such employee had
17 not taken leave under section 102(a)(1)(F), the
18 employer shall use the following in place of such
19 number:

20 “(i) Subject to clause (ii), a number
21 equal to the average number of hours that
22 the employee was scheduled per day over
23 the 6-month period ending on the date on
24 which the employee takes such leave, in-

1 cluding hours for which the employee took
2 leave of any type.

3 “(ii) If the employee did not work
4 over such period, the reasonable expecta-
5 tion of the employee at the time of hiring
6 of the average number of hours per day
7 that the employee would normally be
8 scheduled to work.

9 “(c) NOTICE.—In any case where the necessity for
10 leave under section 102(a)(1)(F) for the purpose described
11 in subsection (a)(2)(A)(iii) is foreseeable, an employee
12 shall provide the employer with such notice of leave as is
13 practicable.

14 “(d) RESTORATION TO POSITION.—

15 “(1) IN GENERAL.—Section 104(a)(1) shall not
16 apply with respect to an employee of an employer
17 who employs fewer than 25 employees if the condi-
18 tions described in paragraph (2) are met.

19 “(2) CONDITIONS.—The conditions described in
20 this paragraph are the following:

21 “(A) The employee takes leave under sec-
22 tion 102(a)(1)(F).

23 “(B) The position held by the employee
24 when the leave commenced does not exist due to

1 economic conditions or other changes in oper-
2 ating conditions of the employer—

3 “(i) that affect employment; and

4 “(ii) are caused by a public health
5 emergency during the period of leave.

6 “(C) The employer makes reasonable ef-
7 forts to restore the employee to a position
8 equivalent to the position the employee held
9 when the leave commenced, with equivalent em-
10 ployment benefits, pay, and other terms and
11 conditions of employment.

12 “(D) If the reasonable efforts of the em-
13 ployer under subparagraph (C) fail, the em-
14 ployer makes reasonable efforts during the pe-
15 riod described in paragraph (3) to contact the
16 employee if an equivalent position described in
17 subparagraph (C) becomes available.

18 “(3) CONTACT PERIOD.—The period described
19 under this paragraph is the 1-year period beginning
20 on the earlier of—

21 “(A) the date on which the qualifying need
22 related to a public health emergency concludes;

23 or

1 “(B) the date that is 12 weeks after the
2 date on which the employee’s leave under sec-
3 tion 102(a)(1)(F) commences.”.

4 **SEC. 3103. EMPLOYMENT UNDER MULTI-EMPLOYER BAR-**
5 **GAINING AGREEMENTS.**

6 (a) EMPLOYERS.—An employer signatory to a multi-
7 employer collective bargaining agreement may, consistent
8 with its bargaining obligations and its collective bar-
9 gaining agreement, fulfill its obligations under section
10 110(b)(2) of title I of the Family and Medical Leave Act
11 of 1993, as added by the Families First Coronavirus Re-
12 sponse Act, by making contributions to a multiemployer
13 fund, plan, or program based on the paid leave each of
14 its employees is entitled to under such section while work-
15 ing under the multiemployer collective bargaining agree-
16 ment, provided that the fund, plan, or program enables
17 employees to secure pay from such fund, plan, or program
18 based on hours they have worked under the multiemployer
19 collective bargaining agreement for paid leave taken under
20 section 102(a)(1)(F) of title I of the Family and Medical
21 Leave Act of 1993, as added by the Families First
22 Coronavirus Response Act.

23 (b) EMPLOYEES.—Employees who work under a mul-
24 tiemployer collective bargaining agreement into which
25 their employers make contributions as provided in sub-

1 section (a) may secure pay from such fund, plan, or pro-
2 gram based on hours they have worked under the multiem-
3 ployer collective bargaining agreement for paid leave taken
4 under section 102(a)(1)(F) of title I of the Family and
5 Medical Leave Act of 1993, as added by the Families First
6 Coronavirus Response Act.

7 **SEC. 3104. SPECIAL RULE FOR CERTAIN EMPLOYERS.**

8 An employer under 110(a)(B) shall not be subject to
9 section 107(a) for a violation of section 102(a)(1)(F) if
10 the employer does not meet the definition of employer set
11 forth in Section 101(4)(A)(i).

12 **SEC. 3105. SPECIAL RULE FOR HEALTH CARE PROVIDERS**
13 **AND EMERGENCY RESPONDERS.**

14 An employer of an employee who is a health care pro-
15 vider or an emergency responder may elect to exclude such
16 employee from the application of the provisions in the
17 amendments made under of section 3102 of this Act.

18 **SEC. 3106. EFFECTIVE DATE.**

19 This Act shall take effect not later than 15 days after
20 the date of enactment of this Act.