



Pennsylvania Labor Laws and COVID-19

New Federal Sick Leave & PFL Policies

U.S. House and Senate passed and President signed Families First Coronavirus Response Act. The Act:

- Applies to businesses with <500 employees. Businesses with <50 employees may get exemptions if the Act will make nonviable.
- Will be in effect for one year.
- Provides 80 hours of sick leave: full pay for sick or quarantined employee, 2/3 pay if caring for another.
- Expands FMLA, up to 12 weeks of job-protected leave for quarantine, sickness, or to care for others, at 2/3 pay.
- Employers can take tax credits against the social security tax to cover the benefits provided. If costs exceed SS, then the government will send employer a check.

PA Workers' Compensation Modifications

PA workers' comp has been modified to allow for benefits as follows:

- An illness caused by work exposures can be considered an injury or an occupational disease. Occupational diseases are those identified by the PA Workers' Compensation Act, as well as the diseases that occur more often in specific jobs or industries.
- Exposure to COVID-19, which resulted in the illness, would most likely be considered an injury, but could also be an occupational disease depending on the type of work performed.

Unemployment

Unemployment benefits may be available for employees of businesses who lose their job through no fault of their own.

- May include those who are quarantined or sick or directed not to work because of COVID-19
- Are not being paid by their employer because the work can't be done remotely
- If the employer temporarily or permanently closes due to no business
- An employee who has reduced work hours due to COVID-19 may be eligible for unemployment compensation

Employee Rights Under Families First Coronavirus Response Act (FFCRA)

Under the FFCRA, any employer with *fewer than 500 employees* is required to provide the following benefits. **Dairy farms with employees on the payroll would fall under these guidelines and should share this information with their employees.**

- Make sure you send [this poster](#) to any employees working remotely so they understand their rights if they or one of their family members gets sick.
- Track the benefits you pay to any employees who get sick, so your business can receive a credit when filing quarterly payroll taxes.
- The benefits are effective from April 1 through December 31, 2020.

Paid Sick Leave

These benefits are available to any employee on your payroll. For full-time employees, it provides 80 hours of paid sick leave benefits for the following COVID-19-related reasons:

- The employee is subject to a government quarantine or isolation order* (**The current Governor's 'Stay at Home' order doesn't qualify for these benefits*)
- The employee has been advised by a healthcare provider to self-quarantine
- The employee has symptoms of COVID-19 and is seeking a medical diagnosis
- The employee is caring for a relative who is in quarantine or isolation
- The employee is unable to work because their child's school is closed or childcare service is closed/unavailable due to a public health emergency, such as COVID-19

Tax Refund: Your business will receive credit for the same amount you are required to give the employee. Credit is refundable and offsets the employer's portion of the social security tax.

Paid Sick Leave: Calculation of the Benefit

Use the following calculations to provide paid sick leave benefits to your employees:

- Leave for employee's own illness or quarantine/isolation:
 - Regular daily pay, up to a cap of \$511
- Leave to care for a family member subject to quarantine/isolation or a child due to school or childcare closure:
 - 66% of regular daily pay, up to a cap of \$200
- Part-time employees with schedules that vary from week-to-week:
 - Use average hours over the prior six-month period
 - If the employee has not worked for six months, use reasonable expectation at time of hiring

Your employees may first use the available Emergency Paid Sick Leave before being required to use their accrued leave. Emergency Paid Sick Leave will not be available after COVID-19 crisis, and there is no pay-out or carry-over.

Paid Family Leave

Paid family leave benefits provide a total of up to 12 weeks of paid leave for employees who *cannot work because their minor child's school or childcare service is closed due to COVID-19 precautions.*

- These benefits apply to any employee who has been on the payroll for at least 30 days.
- The employee may use Emergency Paid Sick Leave for the first two weeks (otherwise unpaid).
- The employee may also substitute other available paid leave.
- The leave benefit should be paid at 66% or regular earnings up to a cap of \$200/day (or \$12,000 total)
- Varying hour calculations may be used for part-time employees.
- The covered employer will also receive the tax credit for mandatory Paid Family Leave payments.

Small Business Exemption

Exemptions for paid sick leave and expanded family and medical leave due to school or daycare closures may apply for businesses with *fewer than 50 employees*. An officer or director will need to gather documentation that:

1. Paying the leave would result in the expenses of the small business exceeding revenues and cause the business to cease operating at a “minimal capacity;”
2. The absence of the employee(s) requesting paid leave would entail a substantial risk to the financial health or operational capabilities, due to their specialized skills, knowledge or responsibilities; or
3. There are not sufficient workers able, willing and qualified to perform the services provided by the employee(s) requesting the paid leave and their services are necessary for the small business to operate at a minimal capacity.

Small Business Exemption (continued)

Small employers will not be exempt from the obligation to pay emergency sick leave for the other qualifying reasons, related to COVID-19, which include:

- federal, state or local quarantine or isolation order;
- the employee has been advised by a healthcare provider to self-quarantine;
- the employee is experiencing symptoms and is seeking a medical diagnosis
- the employee is caring for an individual subject to a governmental quarantine or isolation order and is seeking a diagnosis;
- the employee is caring for an individual subject to a governmental quarantine or isolation order or in self-quarantine; or
- the employee is experiencing “any other substantially similar condition.”