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SEC. 2. PURPOSE.

The purpose of this Act is to ensure that American workers are able to follow, without financial harm, the recommendations of their employer and public health authorities to stay home when they have symptoms of a contagious disease that may put co-workers, customers, or the public at risk.

SEC. 3. PAID SICK LEAVE REQUIREMENT.

(a) In General.—An employer who directs an employee to leave work or not to come in to work because the employer believes the employee has symptoms of a contagious illness, or has been in close contact with an individual who has symptoms of a contagious illness, shall provide paid sick leave to the employee for each workday (or portion thereof) the employee complies with such direction, up to a maximum of 5 workdays per 12-month period.

(b) Employee Compliance With Employer Direction.—An employee shall be considered to be in compliance with an employer’s direction to leave work or not come in to work if the employee leaves work or does not come in to work when the employer instructs or advises the employee to do so because the employer believes that the employee—

(1) has symptoms of a contagious illness; or
(2) has been in close contact with an individual who has symptoms of a contagious illness.

(c) **Duration of Leave.**—

(1) In General.—An employee shall be provided paid sick leave (as calculated in accordance with paragraph (2)) by the employer of the employee for each workday (or portion thereof) the employee complies with the employer’s direction to leave work or not come in to work, up to a maximum of 5 days per 12-month period.

(2) **Calculation of Paid Sick Leave.**—

(A) **Calculation.**—The amount of paid sick leave shall be calculated based on the employee’s regular rate of pay and the number of hours the employee would otherwise be normally scheduled to work.

(B) **Guidelines.**—The Secretary of Labor shall issue guidelines to assist employers in calculating the amount of paid sick leave under subparagraph (A).

(3) Reasonable Notice.—After the first workday (or portion thereof) an employee receives paid sick leave under this Act, an employer may require the employee to follow reasonable notice proce-
dures in order to continue receiving such paid sick leave.

(4) Employer’s Termination of Paid Sick Leave.—Paid sick leave provided to an employee under this Act shall cease beginning with the employee’s next scheduled workshift immediately following notification by the employer to the employee that the employer believes the employee no longer has symptoms of a contagious illness or poses a threat of contagion to other employees of the employer or to the public.

SEC. 4. NOTICE.

Each employer shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees are customarily posted, a notice, to be prepared or approved by the Secretary of Labor of the requirements described in this Act.

SEC. 5. PROHIBITED ACTS.

It shall be unlawful for any employer to discharge, discipline, or in any other manner discriminate against any employee who—

(1) complies, in accordance with this Act, with an employer’s direction to leave work or not come in to work; or
(2) has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act (including a proceeding that seeks enforcement of this Act), or has testified or is about to testify in any such proceeding.

SEC. 6. ENFORCEMENT.

(a) UNPAID SICK LEAVE.—An employer who fails to pay sick leave in violation of this Act shall—

(1) be considered to have failed to pay minimum wages in violation of section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206); and

(2) be subject to the penalties described in section 16 of such Act (29 U.S.C. 216) with respect to such violation.

(b) UNLAWFUL TERMINATION.—An employer who willfully violates section 5(2) shall—

(1) be considered to be in violation of section 15(a)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(a)(3)); and

(2) be subject to the penalty described in section 16(a) of such Act (29 U.S.C. 216(a)) with respect to such violation.
SEC. 7. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to in any way diminish the rights or benefits that an employee is entitled to under any—

(1) other Federal, State, or local law;
(2) collective bargaining agreement; or
(3) existing employer policy.

SEC. 8. EFFECTIVE DATE.

This Act, and the requirements under this Act, shall be effective not later than 15 days after the date of enactment of this Act.

SEC. 9. SUNSET.

This Act, and the requirements under this Act, shall expire 2 years after the effective date of this Act.

SEC. 10. DEFINITIONS.

For purposes of the Act:

(1) Contagious Illness.—The term “contagious illness” includes influenza-like illnesses such as the novel H1N1 virus.

(2) Employ; Employee.—The terms “employ” and “employee” have the same meanings given such terms in subsections (e) and (g) of section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203 (e) and (g)).

(3) Employer.—The term “employer” has the meaning given such term in section 3(d) of the Fair
Labor Standards Act of 1938 (29 U.S.C. 203(d)), except that the term does not include an employer who—

(A) employs fewer than 15 employees; or

(B) with respect to an employee being directed to leave work or not come in to work, provides such employee with at least 5 days of paid sick leave per 12-month period that may be used at such employee’s discretion.