

(H. B. 2428)

(No. 37-2020)

(Approved April 9, 2020)

AN ACT

To amend Section 6 of Act No. 180-1998, as amended, known as the “Puerto Rico Minimum Wage, Vacation and Sick Leave Act,” to establish that during a state of emergency declared by the Governor of Puerto Rico or the Secretary of the Department of Health, an employee that has contracted or is suspected of contracting the disease or illness which prompted the state of emergency may make use of a special paid leave for emergencies declared by the Governor of Puerto Rico or the Secretary of the Department of Health for up to five (5) business days upon exhausting all other leaves to which he is entitled; and for other related purposes.

STATEMENT OF MOTIVES

Puerto Rico is on alert and continuously monitoring the situation as a result of the outbreak of a respiratory disease caused by a new coronavirus (COVID-19). This virus was first discovered in the city of Wuhan, in the Hubei Province of China and has continued to spread.

China’s health authorities have reported that thousands of persons have been infected with COVID-19. This virus is being transmitted from person to person in many parts of the country. The first coronavirus infections detected are mostly linked to travel from Wuhan as well as to an increasing number of international locations including Italy, Iran, and the United States of America.

The symptoms reported in confirmed COVID-19 cases have varied from mild to severe and have even resulted death. Symptoms may include:

- Fever;
- Cough; and/or

- Difficulty breathing.

The Centers for Disease Control (CDC) estimates that COVID-19 symptoms may appear within two (2) to fourteen (14) days after exposure. This is based on the CDC's prior observations on the MERS-CoV virus incubation period.

There currently is no vaccine to prevent COVID-19. The best way to prevent illness is to avoid being exposed to the virus. However, as a reminder, the CDC always recommends that preventive measures be taken every day to prevent the transmission of respiratory diseases. Such measures include:

- Avoiding close contact with people who are sick;
- Avoiding touching eyes, nose, and mouth;
- Staying home if you are sick;
- Covering your nose and mouth with a disposable tissue when you cough or sneeze and then throwing the tissue in the trash;
- Using common household cleaning products, whether sprays or wipes, to clean and disinfect high-touch objects and surfaces;
- Washing your hands often with soap and water for at least 20 seconds, especially after using the restroom, before eating, or after blowing your nose, coughing, or sneezing; and/or
- Using a hand sanitizer that contains at least 60% alcohol if soap and water are not readily available.

Sadly, there is no specific antiviral treatment recommended for COVID-19. People infected with COVID-19 must receive care to help relieve their symptoms. For severe cases, treatment must include medical assistance to support vital organ function.

In view of the imminent arrival of COVID-19 to Puerto Rico, it is expected that, just like in other countries, a large number of the Island's residents shall

contract the virus. In all likelihood, thousands of those who become infected shall be public and private sector employees. In the case of public servants, the Governor of Puerto Rico, the Hon. Wanda Vázquez-Garced, granted a special paid leave of fourteen (14)-day for persons who test positive for COVID-19 through Executive Order 2020-20. The purpose of this legislation is to address any situations that may arise in the private sector, therefore, we intend to amend the “Puerto Rico Minimum Wage, Vacation and Sick Leave Act,” to establish that during a state of emergency declared by the Governor of Puerto Rico or the Secretary of the Department of Health, an employee that has contracted or is suspected of contracting the disease or illness which prompted the state of emergency may use a special leave for emergencies upon exhausting all other leaves to which he is entitled.

It is worth noting that the Department of Health was first created by Act No. 81 of March 14, 1912, as amended, and later established by virtue of the provisions of Article IV, Section 6 of the Constitution of Puerto Rico, on July 25, 1952. Recognizing its constitutional duty to safeguard the People’s health and consistent with the public policy in effect, the Department of Health is responsible for setting the health objectives of the People of Puerto Rico and developing strategies to protect their health. Likewise, it is the duty of the Secretary of Health to discharge all those duties delegated under Act No. 81, *supra*, as well as any other health-related duties necessary for an effective health system.

In accordance with the powers conferred by Act No. 81, the Secretary of Health has the legal authority to issue orders to prevent irreparable damage to the public health and wellbeing. This Act further establishes that, in the event that an epidemic should threaten the health of Puerto Rico, the Secretary of Health shall take the measures that he deems necessary to combat it, and with the Governor’s approval, shall incur expenses as necessary on behalf of the State Government chargeable to the State Emergency Fund. Furthermore, he is required to address any

matters that affect the public health, which duty is conferred unto him by law, as well as to publish accurate information on common diseases and epidemics.

It is necessary to stress that the Secretary of Health has declared states of emergency in the past to address the Zika and Influenza outbreaks, among others.

With this Act, and only when a state of emergency has been declared by the Secretary of Health under the applicable laws, the employees of the private sector shall be able, if necessary, to use their accrued leaves without being penalized by their employers. In the event that the disease which caused the state of emergency persists, these employees may avail themselves of a paid leave for up to five (5) business days.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Section 6 of Act No. 180-1996, as amended, is hereby amended to read as follows:

“Section 6.- Provisions on Vacation, Sick Leave, and Emergency Leave Without Pay.

(a) ...

(p) During state of emergency declared by the Governor of Puerto Rico or the Secretary of Health, the latter pursuant to the provisions of Act No. 81 of March 14, 1912, as amended, an employee who has contracted or is suspected of contracting the disease or illness which prompted the state of emergency may use all accrued leaves to which he is entitled upon exhausting his sick leave. If the employee continues to be ill, he shall be granted an emergency paid leave for up to five (5) business days.

(q) No employer, supervisor, or their representative shall use, as part of a company’s administrative procedure or policy, excused absences because of illness as performance criteria for the employee evaluation process, if said employee is being considered for a raise or promotion in the company he works for. No excused

absences because of illness correctly charged to sick leave or to the special emergency leave provided in this Section, with or without pay, shall be used as grounds for disciplinary actions such as suspensions or dismissals.

Section 2.- This Act shall take effect upon its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 37-2020 (H. B. 2428)** of the **7th Regular Session** of the **18th Legislative Assembly of Puerto Rico**:

AN ACT amend Section 6 of Act No. 180-1998, as amended, known as the “Puerto Rico Minimum Wage, Vacation and Sick Leave Act,” to establish that during a state of emergency declared by the Governor of Puerto Rico or the Secretary of the Department of Health, an employee that has contracted or is suspected of contracting the disease or illness which prompted the state of emergency may make use of a special paid leave for emergencies declared by the Governor of Puerto Rico or the Secretary of the Department of Health for up to five (5) business days upon exhausting all other leaves to which he is entitled; and for other related purposes.

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on this 1st day of December, 2021.

Mónica Freire-Florit, Esq.
Director