

**HOUSE . . . . . No. 1816**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act providing unpaid family and medical leave..

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1.     Chapter 149 of the General Laws, as appearing in the 2000 Official  
2 Edition, is hereby amended by adding the following section:-

3           Section 105E.

4           (a) The following word shall have the following meaning, unless the context requires or  
5 specifically prescribes a different meaning:-

6           “Employer”, any person in the Commonwealth engaged in commerce or in any industry  
7 or activity affecting commerce who employs 35 or more employees for each working day during  
8 each of 20 or more calendar workweeks in the year 2006 who employs 20 or more employees for  
9 each working day during each of 20 or more calendar workweeks in the year 2007 and does not  
10 include the Commonwealth, its subdivisions, or any agencies, commissions or authorities of the  
11 state.

12 (b) Except as otherwise provided by this section, an employer shall provide leave and be  
13 subject to the requirements of sections 101 to 105, inclusive, of the Family and Medical Leave  
14 Act of 1993, 29 U.S.C. sections 2611 to 2615, inclusive, as it may be amended.

15 (c) Nothing in this section shall be construed to affect any bargaining agreement or  
16 company policy which provides employees with greater or additional benefits than those  
17 required by this section.

18 (d) Nothing in this section shall be construed to limit or diminish an employee's rights  
19 under chapter 152.

20 (e) (1) Subject to paragraph (2), during the period any employee takes leave under this  
21 section, the employer shall offer to maintain group health benefits under the conditions that  
22 applied immediately before the leave began. (2) During the leave period, the employer may  
23 require the employee to make the contribution normally paid by the employee for health benefits.

24 (f) No employee shall be penalized by any employer in any way as a result of any action  
25 on the part of the employee to seek his or her rights under the provisions of this section. It shall  
26 be unlawful for any person to discharge or in any other manner discriminate against any  
27 individual because such individual:-

28 (1) has filed any charge, or has instituted or cause to be instituted any proceeding, under  
29 or related to this section;

30 (2) has given, or is about to give, any information in connection with any inquiry or  
31 proceeding relating to any right provided under this section; or

32 (3) has testified, or is about to testify in any inquiry or proceeding relating to any right  
33 provided under this section.

34 (g) In the event an employee believes an employer has violated subsection (f), such  
35 employee shall have available tat law or equity, the remedies provided under sections 148 to 150,  
36 inclusive, of chapter 149. The attorney general shall enforce this section under the authority  
37 provided in chapter 149.

38 (h) Each employer shall post, in one or more conspicuous places where he or she  
39 customarily posts notices to employees, a notice in a form approved by the department setting  
40 forth employees' rights under this section. Any employer who violates this subsection shall be  
41 subject to a fine of not more than one hundred dollars for each offense. Each day that any  
42 employer fails to post the prescribed notice shall constitute a separate offense.