SENATE DOCKET, NO. 613 FILED ON: 2/3/2021

SENATE . . . . . No. 1195

The Commonwealth of Massachusetts

PRESENTED BY:

Paul R. Feeney

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act providing hazard pay and protection for essential workers during a "State of Emergency" declaration.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Paul R. Feeney	*Bristol and Norfolk*	
Adam G. Hinds	*Berkshire, Hampshire, Franklin and Hampden*	*4/20/2021*

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SENATE . . . . . No. 1195

By Mr. Feeney, a petition (accompanied by bill, Senate, No. 1195) of Paul R. Feeney for legislation to provide hazard pay and protection for essential workers during a "State of Emergency" declaration. Labor and Workforce Development.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act providing hazard pay and protection for essential workers during a "State of Emergency" declaration.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to ensure the safety, health and protection of essential workers during a declared "State of Emergency", therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety, health and convenience.

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

SECTION 1. Definitions:

"Essential services," any services that are required to promote the public health and welfare of the Commonwealth as defined in the Governor's March 23, 2020 emergency order ("COVID-19 Order No. 13") or in the Governor's March 31, 2020 extension order ("COVID-19 Order No. 21"), regardless of whether these emergency orders have been rescinded, or as defined in any other superseding emergency order or orders.

"Essential business," any private-sector employer that provides "Essential services" and is authorized to remain open during a declaration by the Governor of a state of emergency. This

law shall apply to employers with eleven or more employees who are covered by Section 148C of Chapter 149 of the General Laws. "Essential worker" means an individual employed by an “Essential business.”

SECTION 2. Notwithstanding Chapter 149 of the General Laws or any other special or general law to the contrary, following the declaration by the Governor of a state of emergency that includes or is followed by any additional executive order in furtherance of such declaration that includes an order to stay at home, shelter in place, or limit time spent outside the home, any employer that provides “Essential Services” outside his or her home, shall pay each of its essential workers, “hazard pay,” calculated at a rate not less than one and one-half times the essential worker’s regular rate of pay for any hours worked while the state of emergency is in effect. This section shall not apply to anyone employed by the Commonwealth or any of its political subdivisions, or a bona fide executive, administrative, or professional person exempt from overtime under the federal Fair Labor Standards Act.

SECTION 3. No essential worker shall be required to perform “Essential Services” work under the following conditions: (1) if the worker reasonably believes that working in the workplace would seriously threaten their health or safety; (2) if the worker has a health condition that puts them at an elevated health risk arising from an immediate or imminent exposure to a hazard; (3) if they live with a person whose health condition would put that person at an elevated risk on the basis that working creates a health risk to that person; or (4) if they have to care for children and daycare or schools are not available following the declaration by the Governor of a state of emergency. A refusal to work shall not be grounds for discrimination, dismissal, discharge, reduction in hours, or any other penalty. However, this section shall not require an

employer to provide pay during a period of refusal under this section, although this section shall not impair an employee's right to receive pay for any other reason.

SECTION 4. The provisions of this law shall be enforced by the office of the attorney general pursuant to their authority under Section 150 of Chapter 149. However, an employee's right to receive all wages due under any other statute shall not be impaired by this statute, nor shall an employee's ability to enforce their rights under any other statute.

SECTION 5. Following the declaration by the Governor of a state of emergency, that includes or is followed by any additional executive order in furtherance of such declaration, any essential employer shall provide each of its essential workers, at no cost to them, personal protective equipment related to the state of emergency and recommended for the relevant work site or job task by the Department of Labor and Industry, the Department of Health, the U.S. Centers for Disease Control and Prevention, or the Occupational Safety and Health Administration.