

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:	
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	
<i>Adam G. Hinds</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>	<i>4/20/2021</i>

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:

1 SECTION 1. Definitions:

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5 Order No. 21”), regardless of whether these emergency orders have been rescinded, or as defined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

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

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

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

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

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

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

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