

SENATE No. 1155

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Barrett

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 relative to COVID-19 and improving workers' benefits.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>3/29/2021</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	<i>4/22/2021</i>

SENATE No. 1155

By Mr. Barrett, a petition (accompanied by bill, Senate, No. 1155) of Michael J. Barrett and Joanne M. Comerford for legislation relative to COVID-19 and improving workers' benefits. Labor and Workforce Development.

The Commonwealth of Massachusetts

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

An Act relative to COVID-19 and improving workers' benefits.

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. For purposes of this Act, the following terms shall have the following
2 meanings:-

3 “Employer”, any employer as defined in section one of Chapter 152 that may operate
4 subject to any executive order issued by the Governor during the State of emergency.

5 “Employee”, any individual who works for an employer outside of the individual’s home
6 and who has any contact with any other person at the workplace or in connection with work.

7 “State of emergency”, the state of emergency called by Executive Order No. 591 dated
8 March 10, 2020 concerning the health care crisis caused by the COVID-19 virus, along with any
9 subsequent states of emergency that may be declared by the Commonwealth from time to time or
10 at any time due to health care concerns raised by the COVID-19 virus.

SECTION 2. Chapter 34 of Section 152 of the general laws is hereby amended by inserting the following language after the second paragraph of said Chapter:

Notwithstanding any general or special law, rule or regulation to the contrary, any employee, who contracts, has symptoms of or otherwise becomes affected with COVID-19 that results in a period of hospitalization, quarantine, or requires self-quarantine measures as a result of being infected or coming into contact with someone who is infected with the COVID-19 virus, shall have their medical condition or incapacity to work presumed to be work-related and constitute a rebuttable qualification for protection under this Section, without application of any waiting period.

Said employee shall not be required to use said employee's accrued sick time, vacation time, personal time or any other contractual time-off to cover said period of incapacitation or inability to perform regular duty work.

SECTION 3. A refusal on behalf of the employer to allow the employee to return to the employee's previous position of employment when the period of quarantine, self-quarantine, recovery, or hospitalization is removed will be considered a per se incident of disability discrimination pursuant to the provisions of Section 4 of Chapter 151B.

SECTION 4. The provisions of Sections 23 and 24 of Chapter 152 do not apply to claims brought under this Act, unless the employer demonstrates compliance with all relevant and active orders and advisories of the Governor of the Commonwealth concerning workplace safety restrictions during the state of emergency, such as, but not limited to, the provision to employees of available Personal Protective Equipment and appropriate safe distancing opportunities, and with any regulations issued by the Division of Labor Standards of the Commonwealth or any

guidance or standards issued by the Occupational Safety and Health Administration of the U.S. Department of Labor.

SECTION 5. This act shall be in force to protect employees who are exposed to the COVID-19 virus or are advised to quarantine or self-quarantine by any health official during the pendency of the state of emergency. As provided in Section 41 of Chapter 52, a claim under this act must be brought within four years of the discovery of any condition caused by exposure to the COVID-19 virus or any loss of employment due to said exposure or period of quarantine or self-quarantine resulting therefrom.

SECTION 6. An employee who chooses not to return to work for an employer due to a good-faith concern that the worker may be exposed to the COVID-19 virus will be considered eligible for benefits under Chapter 151A as if the employee had been constructively discharged.

SECTION 7. Any recipient of benefits under Chapter 151A who chooses not to accept re-employment during the benefit period due to concerns about exposure to the COVID-19 virus will not become ineligible for benefits under Chapter 151A due to the refusal of the re-employment position.

SECTION 8. Any costs associated with the payment of claims under this Act shall not be included in experience rating calculations for individual employers unless there has been a conclusive finding by the appropriate agency that the employer has failed to follow guidance or regulations issued by the Commonwealth of Massachusetts or any municipal or county government in the Commonwealth, the Centers for Disease Control and Prevention, or the U.S. Department of Labor's Occupational Safety and Health Administration.