

Key Take-Aways:

- **FMLA Expansion:**
 - Applies through 12/31/2020
 - Permits leave for school/childcare closures and childcare provider being unavailable.
 - Does not apply to employers over 500 employees and employers with fewer than 50 employees may be eligible for an exemption
 - 96.6% of Vermont private employers may be eligible for exemption (52.3% of private sector employees)
 - 0.2% of Vermont private employers are exempt from expansion (14.9% of private sector employees)
 - Leave is unpaid for first 10 days (unless employee uses accrued leave) and employer pays 2/3 of employee's normal wages (max of \$200/day) for leave beyond 10 days.
 - Employers required to pay up to \$10,000 in the aggregate.
 - Job protection requirements are eased for employers with fewer than 25 employees.
- **Unemployment Insurance Provisions:**
 - Provides additional federal funding for administration of State UI program through 12/31/2020.
 - Provides for full federal funding of extended benefits that are paid through 12/31/2020.
 - Relaxes federal conformity requirements for statutory and rule changes made to address COVID-19.
 - Proposals by VT House in H.681 work with the federal changes.
 - May need to modify the sunset date of changes in H.681.
- **Sick Leave for COVID-19:**
 - Applies through 12/31/2020.
 - Provides up to 80 hours of paid sick leave to full-time employees for COVID-19 related reasons.
 - Part-time employees receive proportionately less sick time based on hours worked.
 - Leave related to employee's condition is compensated at regular rate of pay or minimum wage, whichever is greater, up to a max of \$511/day.
 - Leave related to a family member is compensated at 2/3 regular rate of pay or minimum wage, whichever is greater, up to a max of \$200/day.
 - Sick leave is in addition to any leave that is already provided by employer and does not preempt State law.
 - Does not apply to private employers with 500 or more employees. (0.2% of Vermont private employers, who employ 14.9% of private sector employees)
 - Sec. of Labor may adopt rules to:
 - Exempt employers with fewer than 50 employees if the sick leave requirements "would jeopardize the viability of the business as a going concern."
 - Permit employers to exclude health care providers and emergency responders from the sick leave provisions

Updated Summary of Employment Specific Provisions HR6201
as passed the U.S. House of Representatives:

March 17, 2020

Emergency Family and Medical Leave Expansion Act:

- Amends the FMLA from 15 days after enactment through 12/31/2020.
- Permits individuals to take leave for a “qualifying need related to a public health emergency”
- For purposes of the leave, employees are eligible after having been employed for only 30 days.
 - Employers of health care providers and emergency responders may exclude those employees from the FMLA expansion.
- Only applies to employers with fewer than 500 employees.
 - Sec. of Labor may adopt regulations to exempt certain businesses with fewer than 50 employees from the law “when the imposition of such requirements would jeopardize the viability of the business as a going concern”
- “A qualifying need related to a health emergency” means leave to care for a child under 18 years of age if their school or childcare has been closed or the childcare provider is unavailable due to a public health emergency.
- First 10 days of leave is unpaid but employee may elect to use accrued paid leave.
 - After 14 days, an employer must pay an employee 2/3 of the employee’s regular rate of pay for the number of hours the employee would normally work up to a max of \$200/day.
 - For employees with a variable schedule, the employer will use either the average number of hours the employee worked during the previous 6 months or, for employees who have worked less than 6 months, the amount the employee was reasonably expected to work at the time of hiring.
 - Aggregate maximum paid is \$10,000.
- Must provide employer with as much notice as practicable.
- Job protection provisions do not apply to employers with less than 25 employees if:
 - Employee takes public health emergency leave
 - Employee’s position no longer exists at the conclusion of the leave due to economic conditions or changes in the operating conditions of the employer;
 - That affect employment; and
 - Are caused by a public health crisis during the employee’s leave;
 - The employer makes reasonable efforts to restore the employee to an equivalent position; and
 - If the efforts to restore the employee to an equivalent position fail; the employer makes reasonable efforts to contact the employee if an equivalent position becomes available within 1 year from the earlier of:
 - the date on which the employee’s need for the leave concludes; or
 - 12 weeks after the date the employee’s leave begins.

Updated Summary of Employment Specific Provisions HR6201
as passed the U.S. House of Representatives:

March 17, 2020

Emergency Unemployment Insurance Stabilization and Access Act of 2020:

- Provides for emergency grants to states.
 - 50% of funds for which State is eligible will be transferred within 60 days after effective date of act.
 - Remaining 50% will be transferred if state unemployment claims increase by 10% or more over the same quarter in the previous calendar year.
 - State must demonstrate steps taken to increase access to UI benefits, including easing eligibility requirements, removing work search requirements, and relieving employers of benefit charges against their experience rating for COVID-19 related claims.
 - Modifications on an emergency basis to respond to COVID-19 will be disregarded for purposes of determining State compliance.
 - States that receive emergency grants will be eligible for fully federally funded extended unemployment compensation.
- Temporary modifications to address COVID-19 will be disregarded for purposes of federal conformity requirements.
- Provides for full federal reimbursement for extended benefits paid before 12/31/2020

Emergency Paid Sick Leave Act:

- Applies to employees of:
 - private employers with fewer than 500 employees; and
 - public employers with 1 or more employees.
- Sec. of Labor may adopt regulations to:
 - Exclude certain healthcare providers and emergency responders from coverage; and
 - Exempt small businesses with fewer than 50 employees when the sick leave requirements “would jeopardize the viability of the business as a going concern.”
- Sick time may be used for:
 - Quarantine of the employee due to a COVID-19 diagnosis;
 - To obtain medical care if the employee is experiencing symptoms of COVID-19;
 - To quarantine on the recommendation of a healthcare provider because of concerns related to COVID-19;
 - To care for an individual who is:
 - Subject to a quarantine or isolation order related to COVID-19; or
 - Advised to quarantine by a healthcare provider based on concerns related to COVID-19;
 - To care for a child if their school or childcare has been closed or the childcare provider is unavailable due to COVID-19; or
 - A substantially similar condition specified by Sec. of HHS in consultation with Sec. of Treasury and Sec. of Labor (employer of health care provider or emergency responder may choose to exclude those employees from this provision).
- Full-time employees are entitled to 80 hours of sick leave.
 - Part-time employees are entitled to an amount equal to the average number of hours they work in a two-week period.
 - Sick time for employees with variable schedules is determined based on the average hours worked in the past 6 months, or, if employee has not worked for 6 months, the reasonable expectation at hiring of the number of hours the employee would work.
 - Hours do not carry over from year to year.
- This paid sick leave is in addition to any sick leave already provided to employees.
- Employees are immediately eligible to use this paid sick leave and an employer may not require an employee to use leave that the employer already provides first.
- Sick time is compensated at employee’s regular wage rate or the applicable minimum wage, whichever is greater.
 - Care for family members is compensated at 2/3 of the required amount.
 - Compensation for own illness is subject to a cap of \$511/day and \$5,110 in the aggregate.
 - Compensation for a family member’s illness is subject to a cap of \$200/day and \$2,000 in the aggregate.
- Employer may require employees to provide reasonable notice.
- Enforced under the provisions of the FLSA.
- Does not preempt state or local laws that provide greater rights.
- Takes effect 15 days after enactment and sunsets on 12/31/2020.