

HOUSE No. 1935

The Commonwealth of Massachusetts

PRESENTED BY:

Edward R. Philips

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 declared public health state of emergency.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Edward R. Philips</i>	<i>8th Norfolk</i>	<i>1/19/2023</i>

HOUSE No. 1935

By Representative Philips of Sharon, a petition (accompanied by bill, House, No. 1935) of Edward R. Philips relative to providing hazard pay and protection for essential workers during a declared state of emergency. Labor and Workforce Development.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 2042 OF 2021-2022.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act providing hazard pay and protection for essential workers during a declared public health state of emergency.

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5 Order No. 21”), regardless of whether these emergency orders have been rescinded, or as defined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 public health state of

9 emergency. This law shall apply to employers with eleven or more employees who are covered
10 by Section 148C of Chapter 149 of the General Laws.

11 "Essential worker" means an individual employed by an "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 public health state of
14 emergency that includes or is followed by any additional executive order in furtherance of such
15 declaration that includes an order to stay at home, shelter in place, or limit time spent outside the
16 home, any employer that provides "Essential Services" outside his or her home, shall pay each of
17 its 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 public health state of
19 emergency is in effect. This section shall not apply to anyone employed by the Commonwealth
20 or any of its political subdivisions, or a bona fide executive, administrative, or professional
21 person exempt 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 public health state of emergency. A refusal to work shall not be grounds for discrimination,
30 dismissal, discharge, reduction in hours, or any other penalty. However, this section shall not

31 require an employer to provide pay during a period of refusal under this section, although this
32 section shall 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 public health state of
38 emergency, that includes or is followed by any additional executive order in furtherance of such
39 declaration, any essential employer shall provide each of its essential workers, at no cost to them,
40 personal protective equipment related to the public health state of emergency and recommended
41 for the relevant work site or job task by the Department of Labor and Industry, the Department of
42 Health, the U.S. Centers for Disease Control and Prevention, or the Occupational Safety and
43 Health Administration.