

REFERENCE TITLE: health care workers; employment rights

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2388

Introduced by
Representatives Hernandez M: Aguilar

AN ACT

AMENDING TITLE 23, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4; RELATING TO EMPLOYMENT PRACTICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 23, chapter 2, Arizona Revised Statutes, is
3 amended by adding article 4, to read:

4 ARTICLE 4. ESSENTIAL HEALTH CARE WORKERS

5 23-251. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "COVID-19 ESSENTIAL FUNCTION" HAS THE SAME MEANING AS ESSENTIAL
8 FUNCTION PRESCRIBED IN EXECUTIVE ORDER 2020-12 ISSUED ON MARCH 23, 2020.

9 2. "EMPLOY" HAS THE SAME MEANING PRESCRIBED IN SECTION 23-362.

10 3. "EMPLOYEE" HAS THE SAME MEANING PRESCRIBED IN SECTION 23-362.

11 4. "EMPLOYER" HAS THE SAME MEANING PRESCRIBED IN SECTION 23-362.

12 5. "FAMILY MEMBER" HAS THE SAME MEANING PRESCRIBED IN SECTION
13 23-371.

14 6. "HEALTH CARE EMPLOYER":

15 (a) MEANS A HEALTH CARE INSTITUTION WITHIN THIS STATE THAT EMPLOYS
16 MORE THAN SIX INDIVIDUALS, INCLUDING THE PROPRIETOR.

17 (b) DOES NOT INCLUDE ANY INSTITUTION OPERATED BY THIS STATE, ANY
18 POLITICAL SUBDIVISION OF THIS STATE OR ANY OTHER PUBLIC ENTITY.

19 7. "HEALTH CARE INSTITUTION" HAS THE SAME MEANING PRESCRIBED IN
20 SECTION 36-401.

21 8. "HEALTH CARE WORKER" MEANS ANY EMPLOYEE OF A HEALTH CARE
22 EMPLOYER WHO PROVIDES DIRECT PATIENT CARE AND SERVICES SUPPORTING PATIENT
23 CARE, INCLUDING ANY OF THE FOLLOWING:

24 (a) A PHYSICIAN.

25 (b) A PHYSICIAN ASSISTANT.

26 (c) A PHARMACIST.

27 (d) A CLINICIAN.

28 (e) A NURSE.

29 (f) AN AIDE.

30 (g) A TECHNICIAN.

31 (h) A JANITORIAL OR HOUSEKEEPING STAFF MEMBER.

32 (i) A FOOD SERVICES WORKER.

33 (j) A NONMANAGERIAL ADMINISTRATIVE STAFF MEMBER.

34 9. "PERSONAL PROTECTIVE EQUIPMENT":

35 (a) MEANS PROTECTIVE EQUIPMENT FOR EYES, FACE, HEAD AND
36 EXTREMITIES, PROTECTIVE CLOTHING, RESPIRATORY DEVICES AND PROTECTIVE
37 SHIELDS AND BARRIERS.

38 (b) INCLUDES ALL OF THE FOLLOWING:

39 (i) N95 AND OTHER FILTERING FACEPIECE RESPIRATORS.

40 (ii) ELASTOMERIC AIR-PURIFYING RESPIRATORS WITH APPROPRIATE
41 PARTICULATE FILTERS OR CARTRIDGES.

42 (iii) POWERED AIR PURIFYING RESPIRATORS.

43 (iv) DISINFECTING AND STERILIZING DEVICES AND SUPPLIES.

44 (v) MEDICAL GOWNS AND APPAREL.

45 (vi) FACE MASKS.

- 1 (vii) SURGICAL MASKS.
- 2 (viii) FACE SHIELDS.
- 3 (ix) GLOVES.
- 4 (x) SHOE COVERINGS.
- 5 (xi) ANY EQUIPMENT IDENTIFIED BY OR OTHERWISE NECESSARY TO COMPLY
- 6 WITH ALL LAWS, STANDARDS AND RULES RELATING TO HEALTH AND SAFETY.

7 10. "RETALIATORY ACTION" MEANS DISCHARGING, SUSPENDING, DEMOTING,
8 PENALIZING OR DISCRIMINATING AGAINST AN EMPLOYEE OR TAKING OTHER ADVERSE
9 EMPLOYMENT ACTION AGAINST AN EMPLOYEE IN THE TERMS AND CONDITIONS OF
10 EMPLOYMENT.

11 23-252. Hazard pay

12 A. A HEALTH CARE EMPLOYER SHALL PAY HAZARD PAY AS PRESCRIBED IN
13 THIS SECTION TO EACH HEALTH CARE WORKER FOR EACH HOUR OF WORK PERFORMED
14 OUTSIDE THE HEALTH CARE WORKER'S HOME TO SERVE A COVID-19 ESSENTIAL
15 FUNCTION.

16 B. HAZARD PAY SHALL BE CALCULATED AS A PREMIUM OF FIVE PERCENT
17 ABOVE A HEALTH CARE WORKER'S BASE PAY, WHICH IS THE HIGHEST REGULAR HOURLY
18 RATE THAT THE EMPLOYER PAID TO THE HEALTH CARE WORKER IN THE YEAR BEFORE
19 THE EFFECTIVE DATE OF THIS SECTION, WHETHER BASED ON WAGES OR SALARY.
20 HAZARD PAY SHALL BE INCREASED EACH JANUARY 1 FOR THE THREE YEARS FOLLOWING
21 THE EFFECTIVE DATE OF THIS SECTION, BY INCREASING THE BASE PAY USED IN THE
22 CALCULATION BY FIVE PERCENT EACH YEAR.

23 C. A HEALTH CARE EMPLOYER IS NOT REQUIRED TO PAY HAZARD PAY TO A
24 HEALTH CARE WORKER WHO EARNS REGULAR PAY OF \$125,000 A YEAR OR MORE.

25 23-253. Personal protective equipment

26 CONSISTENT WITH EXISTING LAW, A HEALTH CARE EMPLOYER SHALL SUPPLY
27 APPROPRIATE PERSONAL PROTECTIVE EQUIPMENT TO EACH HEALTH CARE WORKER THE
28 HEALTH CARE EMPLOYER EMPLOYS AT NO COST TO THE HEALTH CARE WORKER. ALL
29 PERSONAL PROTECTIVE EQUIPMENT SHALL BE NEW AND UNEXPIRED.

30 23-254. Exposure notifications

31 WHEN ANY PERSON ON THE SITE OF A HEALTH CARE EMPLOYER CONTRACTS
32 COVID-19, THE EMPLOYER IS REQUIRED TO INFORM ALL EMPLOYEES OR ANY OTHER
33 PERSON ON-SITE OF ANY POTENTIAL EXPOSURE.

34 23-255. COVID-19-related sick leave

35 A HEALTH CARE EMPLOYER IS REQUIRED TO PROVIDE A HEALTH CARE WORKER
36 WITH AT LEAST THREE WEEKS OF PAID SICK LEAVE AT THE HEALTH CARE WORKER'S
37 REGULAR RATE OF PAY IF THE HEALTH CARE WORKER IS UNABLE TO WORK BECAUSE
38 THE HEALTH CARE WORKER IS ANY OF THE FOLLOWING:

- 39 1. SEEKING A MEDICAL DIAGNOSIS OF COVID-19.
- 40 2. ILL WITH OR RECOVERING FROM COVID-19.
- 41 3. IN QUARANTINE OR CARING FOR A FAMILY MEMBER WHO IS SEEKING A
- 42 MEDICAL DIAGNOSIS OF COVID-19, ILL WITH OR RECOVERING FROM COVID-19 OR IN
- 43 QUARANTINE.

1 23-256. Accommodations for quarantine

2 THIS STATE SHALL ARRANGE TO PROVIDE ACCESS TO NO-COST OR LOW-COST
3 HOTEL ROOMS IN CLOSE PROXIMITY TO MEDICAL FACILITIES FOR HEALTH CARE
4 WORKERS WHO COME IN DIRECT CONTACT WITH OR ARE SUSPECTED OF HAVING DIRECT
5 CONTACT WITH COVID-19 PATIENTS, OR WHO TEST POSITIVE FOR COVID-19 BUT DO
6 NOT REQUIRE HOSPITALIZATION.

7 23-257. Whistleblower protections

8 A HEALTH CARE EMPLOYER MAY NOT TAKE ANY RETALIATORY ACTION AGAINST
9 ANY HEALTH CARE WORKER BECAUSE THE HEALTH CARE WORKER DOES ANY OF THE
10 FOLLOWING:

11 1. REFUSES TO PERFORM WORK WHEN THE HEALTH CARE WORKER, IN GOOD
12 FAITH, REASONABLY BELIEVES A VIOLATION OF A HEALTH AND SAFETY LAW,
13 STANDARD OR RULE WOULD CREATE A HAZARD TO THE HEALTH CARE WORKER, ANY
14 FELLOW EMPLOYEE, A PATIENT OR THE PUBLIC.

15 2. REPORTS TO A SUPERVISOR, PUBLIC BODY, NEWS MEDIA OUTLET OR
16 SOCIAL MEDIA FORUM ANY ACTIVITY, POLICY OR PRACTICE OF AN EMPLOYER THAT
17 THE EMPLOYEE, IN GOOD FAITH, REASONABLY BELIEVES WOULD RISK THE HEALTH,
18 SAFETY OR WELFARE OF A PATIENT OR EMPLOYEE IN VIOLATION OF ANY LAW, RULE
19 OR STANDARD OF PRACTICE.

20 23-258. Other laws

21 ALL PAY AND PROTECTIONS PROVIDED FOR IN THIS ARTICLE ARE IN ADDITION
22 TO ALL OTHER PAY AND PROTECTIONS REQUIRED BY LAW.