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(Original Signature of Member)

117TH CONGRESS  
2D SESSION

**H. R.** \_\_\_\_\_

To provide employment protection and paid emergency leave to workers  
impacted by certain climate disasters, and for other purposes.

\_\_\_\_\_  
IN THE HOUSE OF REPRESENTATIVES

Ms. BUSH introduced the following bill; which was referred to the Committee  
on \_\_\_\_\_  
\_\_\_\_\_

**A BILL**

To provide employment protection and paid emergency leave  
to workers impacted by certain climate disasters, and  
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. TABLE OF CONTENTS.**

4 The table of contents for this Act is as follows:

- Sec. 1. Table of contents.
- Sec. 2. Paid emergency time.
- Sec. 3. Employment protection during climate disaster.
- Sec. 4. Employer requirements.
- Sec. 5. Prohibited acts.
- Sec. 6. Enforcement.
- Sec. 7. Definitions.
- Sec. 8. Regulatory authorities.

Sec. 9. Rules of construction.

Sec. 10. Effective date.

1 **SEC. 2. PAID EMERGENCY TIME.**

2 (a) IN GENERAL.—An employer shall provide to each  
3 employee employed by the employer paid emergency time  
4 to the extent that the employee is unable to work (or  
5 telework) due to an applicable climate disaster, includ-  
6 ing—

7 (1) a need to relocate for safety;

8 (2) recovery efforts relating to economic sta-  
9 bility and community safety—

10 (A) in the community in which the em-  
11 ployee resides;

12 (B) at the workplace of the employee; and

13 (C) at the home of the employee;

14 (3) a need to care for family members resulting  
15 from the closure of schools or other facilities;

16 (4) an injury or illness affecting either the em-  
17 ployee or their immediate family; and

18 (5) disruptions of public transit services or  
19 commuter routes.

20 (b) DURATION OF PAID EMERGENCY TIME.—

21 (1) IN GENERAL.—An employee shall be enti-  
22 tled to paid emergency time for a number of hours  
23 determined under paragraph (2).

1           (2) NUMBER OF HOURS.—The number of hours  
2           of paid emergency time to which an employee is enti-  
3           tled during an applicable climate disaster period  
4           shall be as follows:

5                   (A) For full-time employees, 80 hours.

6                   (B) For part-time employees, a number of  
7           hours equal to the number of hours that such  
8           employee works, on average, over a 2-week pe-  
9           riod.

10          (c) PROHIBITION.—An employer may not require, as  
11          a condition of providing paid emergency time under this  
12          Act, that the employee involved search for or find a re-  
13          placement employee to cover the hours during which the  
14          employee is using paid emergency time.

15          (d) AVAILABILITY OF PAID EMERGENCY TIME.—The  
16          paid emergency time under subsection (a) shall be avail-  
17          able for immediate use by the employee for the purposes  
18          described in such subsection, regardless of how long the  
19          employee has been employed by an employer.

20          (e) PROHIBITION ON SUBSTITUTION OF LEAVE  
21          TIME.—An employer may not require an employee to sub-  
22          stitute any of the accrued paid vacation leave, personal  
23          leave, or family leave of such employee for paid emergency  
24          time provided under subsection (a).

25          (f) AMOUNT OF PAID EMERGENCY TIME.—

1           (1) IN GENERAL.—The amount of paid emer-  
2           gency time provided to an employee under this sec-  
3           tion shall be calculated based on the employee’s re-  
4           quired compensation under paragraph (2) and the  
5           number of hours the employee would otherwise be  
6           normally scheduled to work (or the number of hours  
7           calculated under paragraph (3)), except that in no  
8           event shall the amount of such paid emergency time  
9           paid per day exceed—

10                           (A) for calendar year 2022, \$511; and

11                           (B) for any calendar year after 2022, an  
12           amount equal to the product of—

13                                   (i) \$511, multiplied by

14                                   (ii) the quotient obtained by divid-  
15           ing—

16   (I) the Consumer Price Index for  
17   Urban Wage Earners and Clerical  
18   Workers (as published by the Bureau  
19   of Labor Statistics) for the calendar  
20   year immediately preceding such cal-  
21   endar year; by

22   (II) the Consumer Price Index  
23   for calendar year 2021.

24           (2) REQUIRED COMPENSATION.—Subject to  
25           paragraph (1), the employee’s required compensation

1 under this subparagraph shall be not less than the  
2 greater of the following:

3 (A) The employee's regular rate of pay (as  
4 determined under section 7(e) of the Fair  
5 Labor Standards Act of 1938 (29 U.S.C.  
6 207(e)).

7 (B) The minimum wage rate in effect  
8 under section 6(a)(1) of the Fair Labor Stand-  
9 ards Act of 1938 (29 U.S.C. 206(a)(1)).

10 (C) The minimum wage rate in effect for  
11 such employee in the applicable State or local-  
12 ity, whichever is greater, in which the employee  
13 is employed.

14 (3) VARYING SCHEDULE HOURS CALCULA-  
15 TION.—In the case of a part-time employee de-  
16 scribed in subsection (b)(2)(B) whose schedule varies  
17 from week to week to such an extent that an em-  
18 ployer is unable to determine with certainty the  
19 number of hours the employee would have worked if  
20 such employee had not taken paid emergency time  
21 under subsection (a), the employer shall use the fol-  
22 lowing in place of such number:

23 (A) Subject to subparagraph (B), a num-  
24 ber equal to the average number of hours that  
25 the employee was scheduled per week over the

1           6-month period ending on the date on which the  
2           employee takes the paid emergency time, in-  
3           cluding hours for which the employee took leave  
4           of any type.

5                   (B) If the employee did not work over such  
6           period, the reasonable expectation of the em-  
7           ployee at the time of hiring of the average num-  
8           ber of hours per week that the employee would  
9           normally be scheduled to work.

10           (4) GUIDELINES.—Not later than 120 days  
11           after the date of enactment of this Act, the Sec-  
12           retary of Labor shall issue guidelines to assist em-  
13           ployers in calculating the amount of paid emergency  
14           time under paragraph (1).

15                   (5) REASONABLE AND PRACTICABLE NOTICE.—  
16           After the first workday (or portion thereof) an em-  
17           ployee receives paid emergency time under this Act,  
18           an employer may require the employee to follow rea-  
19           sonable and practicable notice procedures in order to  
20           continue receiving such paid emergency time.

21                   (6) PUBLICATION OF PAY LIMITATION.—Not  
22           later than December 1 of each year, the Secretary  
23           of Labor shall publish the amount determined under  
24           paragraph (1)(B) that will be in effect for the fol-  
25           lowing calendar year.

1 **SECTION 3. EMPLOYMENT PROTECTION DURING CLIMATE**  
2 **DISASTER.**

3 (a) RESTORATION TO POSITION.—Any eligible em-  
4 ployee who uses paid emergency time under section 2 for  
5 the intended purpose of the paid emergency time shall be  
6 entitled, on return from using paid emergency time—

7 (1) to be restored by the employer to the posi-  
8 tion of employment held by the employee when the  
9 use of paid emergency time commenced; or

10 (2) to be restored to an equivalent position with  
11 equivalent employment benefits, pay, and other  
12 terms and conditions of employment.

13 (b) LOSS OF BENEFITS.—The use of paid emergency  
14 time shall not result in the loss of any employment benefit  
15 accrued prior to the date on which the use of paid emer-  
16 gency time commenced.

17 (c) LIMITATIONS.—Nothing in this section shall be  
18 construed to entitle any restored employee to—

19 (1) the accrual of any seniority or employment  
20 benefits during any period during which such re-  
21 stored employee uses paid emergency time; or

22 (2) any right, benefit, or position of employ-  
23 ment other than any right, benefit, or position to  
24 which the employee would have been entitled had the  
25 employee not used paid emergency time.

1 (d) CONSTRUCTION.—Nothing in this section shall be  
2 construed to prohibit an employer from requiring an em-  
3 ployee to report periodically to the employer on the status  
4 and intention of the employee to return to work.

5 **SEC. 4. EMPLOYER REQUIREMENTS.**

6 (a) MONITORING FOR APPLICABLE CLIMATE DIS-  
7 ASTER.—

8 (1) IN GENERAL.—An employer shall monitor  
9 for, using the tools identified by the Secretary of  
10 Labor pursuant to paragraph (3), and notify an em-  
11 ployee of the existence of, applicable climate disas-  
12 ters

13 (2) EXCLUSION FOR REMOTE EMPLOYEES.—

14 (A) IN GENERAL.—An employer is not re-  
15 quired to monitor for applicable climate disas-  
16 ters affecting remote employees.

17 (B) EXCLUSION FOR REMOTE EMPLOY-  
18 ERS.—An employer who employs only remote  
19 employees shall monitor for, and notify an em-  
20 ployee of the existence of, applicable climate  
21 disasters affecting the area where the largest  
22 concentration of such remote employees reside.

23 (3) MONITORING GUIDELINES.—Not later than  
24 one year after the date of enactment of this Act, the  
25 Secretary of Labor shall issue guidelines that iden-



1       tify tools for employers to use in monitoring for ap-  
2       plicable climate disasters.

3       (b) NOTICE.—

4           (1) IN GENERAL.—Each employer shall post  
5       and keep posted, in conspicuous places on the prem-  
6       ises of the employer where notices to employees are  
7       customarily posted, a notice, to be prepared or ap-  
8       proved by the Secretary of Labor, of the require-  
9       ments described in this Act.

10          (2) MODEL NOTICE.—Not later than 180 days  
11       after the date of enactment of this Act, the Sec-  
12       retary of Labor shall make publicly available a  
13       model of a notice that meets the requirements of  
14       paragraph (1).

15       **SEC. 5. PROHIBITED ACTS.**

16       (a) INTERFERENCE WITH RIGHTS.—

17           (1) EXERCISE OF RIGHTS.—It shall be unlawful  
18       for any employer to interfere with, restrain, or deny  
19       the exercise of or the attempt to exercise, any right  
20       provided under this Act.

21           (2) DISCRIMINATION.—It shall be unlawful for  
22       any employer to discharge or in any other manner  
23       discriminate against any individual for opposing any  
24       practice made unlawful by this Act.

1 (b) INTERFERENCE WITH PROCEEDINGS OR INQUIR-  
2 IES.—It shall be unlawful for any person to discharge or  
3 in any other manner discriminate against any individual  
4 because such individual—

5 (1) has filed any charge, or has instituted or  
6 caused to be instituted any proceeding, under or re-  
7 lated to this Act;

8 (2) has given, or is about to give, any informa-  
9 tion in connection with any inquiry or proceeding re-  
10 lating to any right provided under this Act; or

11 (3) has testified, or is about to testify, in any  
12 inquiry or proceeding relating to any right provided  
13 under this Act.

14 **SEC. 6. ENFORCEMENT.**

15 (a) UNPAID EMERGENCY LEAVE TIME.—An em-  
16 ployer who violates section 2 shall—

17 (1) be considered to have failed to pay min-  
18 imum wages in violation of section 6 of the Fair  
19 Labor Standards Act of 1938 (29 U.S.C. 206); and

20 (2) be subject to the penalties described in sec-  
21 tions 16 and 17 of such Act (29 U.S.C. 216; 217)  
22 with respect to such violation, except that no person  
23 shall be imprisoned under such sections for a viola-  
24 tion of section 2 of this Act.

1 (b) UNLAWFUL ACTION AGAINST EMPLOYEE.—An  
2 employer who willfully violates section 5 shall—

3 (1) be considered to be in violation of section  
4 15(a)(3) of the Fair Labor Standards Act of 1938  
5 (29 U.S.C. 215(a)(3)); and

6 (2) be subject to the penalties described in sec-  
7 tions 16 and 17 of such Act (29 U.S.C. 216; 217)  
8 with respect to such violation, except that no person  
9 shall be imprisoned under such sections for a viola-  
10 tion of section 2 of this Act.

11 **SEC. 7. DEFINITIONS.**

12 For purposes of this Act:

13 (1) EMPLOYEE.—The term “employee” means  
14 any individual employed by an employer.

15 (2) EMPLOYER.—

16 (A) IN GENERAL.—Subject to subpara-  
17 graph (B), the term “employer”—

18 (i) means any individual who employs  
19 an employee;

20 (ii) includes any individual acting di-  
21 rectly or indirectly in the interest of an  
22 employer in relation to an employee.

23 (B) EXCLUSION OF PUBLIC EMPLOYERS.—

24 The term “employer” does not include—

1 (i) the government of the United  
2 States;

3 (ii) the government of any State; or

4 (iii) any unit of local government, de-  
5 partment, agency, or instrumentality there-  
6 of.

7 (3) FLSA TERMS.—The terms “employ” and  
8 “State” have the meanings given such terms in sec-  
9 tion 3 of the Fair Labor Standards Act of 1938 (29  
10 U.S.C. 203).

11 (4) APPLICABLE CLIMATE DISASTER.—

12 (A) IN GENERAL.—The term “applicable  
13 climate disaster” means, with respect to an em-  
14 ployee, a climate disaster determined by the  
15 Secretary to affect or be likely to affect such  
16 employee.

17 (B) CLIMATE DISASTER.—The term “cli-  
18 mate disaster” means a weather or climate  
19 event (including an earthquake, flood, heat  
20 event, hurricane, severe blizzard, superstorm,  
21 tornado, tsunami, utility failure, volcanic explo-  
22 sion, or wildfire) with the potential to cause  
23 great damage or loss of life.

1 **SEC. 8. REGULATORY AUTHORITIES.**

2 The Secretary of Labor shall have the authority to  
3 issue regulations for good cause under sections 553(b)(B)  
4 and 553(d)(A) of title 5, United States Code—

5 (1) to exempt small businesses with fewer than  
6 50 employees from the requirements of paragraphs  
7 (3) and (4) of section 2(a) when the imposition of  
8 such requirements would jeopardize the viability of  
9 the business as a going concern; and

10 (2) as necessary, to carry out the purposes of  
11 this Act.

12 **SEC. 9. RULES OF CONSTRUCTION.**

13 Nothing in this Act shall be construed—

14 (1) to in any way diminish the rights or bene-  
15 fits that an employee is entitled to under any—

16 (A) other Federal, State, or local law;

17 (B) collective bargaining agreement; or

18 (C) existing employer policy; or

19 (2) to require financial or other reimbursement  
20 to an employee from an employer upon the employ-  
21 ee's termination, resignation, retirement, or other  
22 separation from employment for paid emergency  
23 leave time under this Act that has not been used by  
24 such employee.

**1 SEC. 10. EFFECTIVE DATE.**

2       This Act, and the requirements under this Act, shall  
3 take effect not later than 180 days after the date of enact-  
4 ment of this Act.