

116TH CONGRESS
2D SESSION

H. R. 6139

To direct the Secretary of Labor to issue an emergency temporary standard that requires certain employers to develop and implement a comprehensive infectious disease exposure control plan to protect employees in the health care sectors and other employees at elevated risk from exposure to SARS-CoV-2, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 2020

Mr. SCOTT of Virginia (for himself, Ms. SHALALA, Ms. ADAMS, Mr. ROSE of New York, Mr. COURTNEY, Mrs. TRAHAN, Ms. BONAMICI, Ms. WILD, Mr. LEVIN of Michigan, Mr. GRIJALVA, Mrs. DAVIS of California, Mr. MORELLE, Ms. JAYAPAL, Mr. TRONE, Mr. TAKANO, Ms. FUDGE, Mr. DESAULNIER, Mr. SABLAN, Mrs. HAYES, Mr. NORCROSS, and Mrs. LEE of Nevada) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committees on Energy and Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To direct the Secretary of Labor to issue an emergency temporary standard that requires certain employers to develop and implement a comprehensive infectious disease exposure control plan to protect employees in the health care sectors and other employees at elevated risk from exposure to SARS-CoV-2, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “COVID–19 Health
3 Care Worker Protection Act of 2020”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) The infectious disease COVID–19 presents
7 a grave danger to health care workers who are the
8 first line of defense of the United States against this
9 epidemic.

10 (2) Hundreds of health care workers in the
11 United States have been infected or quarantined due
12 to exposure to patients with COVID–19. Surveys
13 conducted by health care worker unions and others
14 have found that many health care facilities are inad-
15 equately prepared to safely protect health care work-
16 ers who are exposed to the virus.

17 (3) Inadequate infection control precautions
18 have a detrimental impact on health care workers,
19 patients and the public, and if there is breakdown in
20 health care worker protections, the Nation’s public
21 health system is placed at risk.

22 (4) The Severe Acute Respiratory Syndrome
23 (hereinafter referred to as “SARS”) epidemic of
24 2003 and 2004 in Canada, which involved a
25 coronavirus, resulted in a disproportionately large
26 number of infections of both health care workers and

1 patients in Ontario, Canada, hospitals due to insuffi-
2 cient infection control procedures involving SARS.

3 (5) The Occupational Safety and Health Ad-
4 ministration began rulemaking on a standard to pro-
5 tect health care workers from airborne and other in-
6 fectionous diseases in 2009. In 2017, the Trump Ad-
7 ministration suspended work on this rulemaking, re-
8 moving it from the active Regulatory Agenda.

9 (6) The Centers for Disease Control and Pre-
10 vention issued a document entitled, “2007 Guideline
11 for Isolation Precautions: Preventing Transmission
12 of Infectious Agents in Healthcare Settings” in July,
13 2007. However, the guideline in such document is
14 not binding.

15 (7) Absent an enforceable standard, employers
16 lack mandatory requirements to implement an effec-
17 tive and ongoing infection and exposure control pro-
18 gram that provides protection to health care workers
19 from COVID–19.

20 (8) Section 6(c)(1) of the Occupational Safety
21 and Health Act authorizes the Occupational Safety
22 and Health Administration to issue an “Emergency
23 Temporary Standard” if employees are exposed to
24 grave danger from harmful agents or new hazards
25 and if an emergency standard is necessary to protect

1 employees from such danger. The widespread out-
 2 break of COVID–19 clearly satisfies these two condi-
 3 tions.

4 (9) The Occupational Safety and Health Ad-
 5 ministration has received two petitions in March
 6 2020 calling on the Occupational Safety and Health
 7 Administration to issue an Emergency Temporary
 8 Standard to protect workers from COVID–19.

9 (10) An Emergency Temporary Standard is
 10 necessary to ensure the immediate protection of
 11 workers in health care workplaces and other high-
 12 risk workplaces identified by the Centers for Disease
 13 Control and Prevention and the Occupational Safety
 14 and Health Administration from infection related to
 15 COVID–19.

16 **TITLE I—COVID–19 EMERGENCY** 17 **TEMPORARY STANDARD**

18 **SEC. 101. COVID–19 EMERGENCY TEMPORARY STANDARD.**

19 (a) EMERGENCY TEMPORARY STANDARD.—Pursuant
 20 to section 6(c)(1) of the Occupational Safety and Health
 21 Act of 1970 (29 U.S.C. 655(c)(1)), not later than 1 month
 22 after the date of enactment of this Act, the Secretary of
 23 Labor shall promulgate an emergency temporary standard
 24 to protect from occupational exposure to SARS–CoV–2—

1 (1) employees of health care sector employers;
2 and

3 (2) employees in other sectors whom the Cen-
4 ters for Disease Control and Prevention or the Occu-
5 pational Safety and Health Administration identifies
6 as having elevated risk.

7 (b) PERMANENT STANDARD.—Upon publication of
8 the emergency standard under subsection (a), the Sec-
9 retary of Labor shall commence a proceeding to promul-
10 gate a standard under section 6(c)(3) of the Occupational
11 Safety and Health Act of 1970 (29 U.S.C. 655(c)(3)) with
12 respect to such emergency temporary standard.

13 (c) REQUIREMENTS.—Each standard promulgated
14 under this section shall—

15 (1) require the employers of the employees de-
16 scribed in subsection (a) to develop and implement
17 a comprehensive infectious disease exposure control
18 plan; and

19 (2) at a minimum, be based on the precautions
20 for severe acute respiratory syndrome (SARS) in the
21 “2007 Guideline for Isolation Precautions: Pre-
22 venting Transmission of Infectious Agents in
23 Healthcare Settings” of the Centers for Disease
24 Control and Prevention and any subsequent updates;
25 and

1 (3) provide no less protection for novel patho-
 2 gens than precautions mandated by standards
 3 adopted by a State plan that has been approved by
 4 the Secretary of Labor under section 18 of the Oc-
 5 cupational Safety and Health Act of 1970 (29
 6 U.S.C. 667).

7 **TITLE II—AMENDMENTS TO THE** 8 **SOCIAL SECURITY ACT**

9 **SEC. 201. APPLICATION OF COVID-19 EMERGENCY TEM-** 10 **PORARY STANDARD TO CERTAIN FACILITIES** 11 **RECEIVING MEDICARE FUNDS.**

12 (a) IN GENERAL.—Section 1866 of the Social Secu-
 13 rity Act (42 U.S.C. 1395cc) is amended—

14 (1) in subsection (a)(1)—

15 (A) in subparagraph (X), by striking
 16 “and” at the end;

17 (B) in subparagraph (Y), by striking the
 18 period at the end and inserting “; and”; and

19 (C) by inserting after subparagraph (Y)
 20 the following new subparagraph:

21 “(Z) in the case of hospitals that are not
 22 otherwise subject to the Occupational Safety
 23 and Health Act of 1970 (or a State occupa-
 24 tional safety and health plan that is approved
 25 under 18(b) of such Act) and skilled nursing fa-

1 cilities that are not otherwise subject to such
2 Act (or such a State occupational safety and
3 health plan), to comply with the standards pro-
4 mulgated under section 101 of the COVID–19
5 Health Care Worker Protection Act of 2020.”;
6 and

7 (2) in subsection (b)(4)—

8 (A) in subparagraph (A), by inserting
9 “and a hospital or skilled nursing facility that
10 fails to comply with the requirement of sub-
11 section (a)(1)(Z) (relating to the standards pro-
12 mulgated under section 101 of the COVID–19
13 Health Care Worker Protection Act of 2020)”
14 after “Bloodborne Pathogens Standard”); and

15 (B) in subparagraph (B)—

16 (i) by striking “(a)(1)(U)” and insert-
17 ing “(a)(1)(V)”); and

18 (ii) by inserting “(or, in the case of a
19 failure to comply with the requirement of
20 subsection (a)(1)(Z), for a violation of the
21 standards referred to in such subsection by
22 a hospital or skilled nursing facility, as ap-
23 plicable, that is subject to the provisions of
24 such Act)” before the period at the end.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall apply beginning on the date that is
3 1 month after the date of promulgation of the emergency
4 temporary standard under section 101 of the COVID-19
5 Health Care Worker Protection Act of 2020.

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