President Signs into Law "COVID 2" Stimulus Package

On March 18, President Trump signed into law H.R. 6201, the Families First Coronavirus Response Act, legislation intended to help workers, businesses, and the health care sector deal with consequences of the COVID-19 outbreak.

The law provides free coronavirus testing, expands food assistance, and provides additional protections for health care workers. The law also creates two forms of paid leave, expands unemployment benefits, and provides employer tax credits for workers and employers impacted by the outbreak. TCIA member businesses are likely to be affected by the latter provisions listed by this law, which are explained in more detail below.

1) ***H.R. 6201 requires employers with fewer than 500 employees to provide paid sick and paid FMLA leave for circumstances related to the coronavirus pandemic.***

Paid Family and Medical Leave (FMLA):
This section requires private sector employers with fewer than 500 employees to provide employees (those who have been employed for at least 30 days) with up to 12 weeks of paid family and medical leave (FMLA) to care for children if their schools or daycare has closed because of a public health emergency and they are unable to work or telework.

For paid FMLA leave, the first 10 days of the leave would be unpaid for workers who opt to use it, but the employee would have the option to substitute accrued vacation, personal, or sick leave. The remainder of the leave would be paid; workers would receive generally two-thirds of their regular rate of pay for the hours they would be scheduled to work if the public health emergency was not occurring. Leave taken under FMLA is protected until workers return to work, but the law makes an exception for employers with less than 25 employees if the position of the worker no longer exists due to operational changes made in response to the public health emergency when the worker returns.

The per employee paid leave under this provision, however, is capped at $200 per day, or $10,000 total.

Paid Sick Leave:
The emergency paid sick leave provision, in addition to the paid FMLA, requires private sector employers with fewer than 500 employees to provide employees with 80 hours (prorated for part-time workers) of paid sick time if they are unable to work or telework because they are personally sick or at risk of getting sick (and thus quarantined), are taking care of a sick individual, or staying home with a child who is out of school due to school closures.

The leave would be immediately available for all workers regardless of tenure at the company, but the amount employers are required to pay differs on whether an employee is taking the leave to care for themselves—this is capped at $511 per day, or $5,110 total—or for others—this is capped at $200 per day, or $2,000 total. This provision also prohibits retaliation against workers who choose to take this leave provided by the law and treats failure to pay workers for such leave the same as violations of minimum wage provisions under the Fair Labor Standards Act.

Finally, the law also provides the Secretary of Labor with the authority to exempt small businesses (those with less than 50 employees) from both paid leave provisions of the law if implementing them would jeopardize the viability of the business. Both leave provisions would take effect 15 days after the legislation's enactment and would be in place through the end of 2020. While employers are expected to cover the costs of the newly created leave upfront, H.R. 6201 provides them with refundable tax credits.

2) ***H.R. 6201 provides reimbursement through refundable tax credits for the benefits employers will have to pay to cover the paid sick and paid FMLA leave.***

The law provides reimbursement to private sector employers subject to the paid sick and family leave benefits requirement with a fully refundable tax credit equal to 100% of the qualified sick leave wages paid by the employer. As mentioned earlier, the maximum amount that an employer would have to pay for paid leave specifically depends on whether the employee is taking time off to care for themselves or to care for other individuals. Employers will receive the refundable tax credit on his next quarterly tax filing for whatever amount they paid towards paid leave benefits.

3) ***H.R. 6201 expands eligibility for unemployment insurance (UI) for employees who lose their job or are furloughed due to the coronavirus crisis. It also makes more funds available to the states to provide UI benefits.***

States expect to see an increase in the number of filings for unemployment insurance as a result of business closures. The new law attempts to adjust to such an increase by giving state governments flexibility with waiting periods and in interpreting "able, available, and actively looking" requirements that UI benefits typically follow. The law also provides an additional $1 billion for state unemployment programs and authorizes extended unemployment benefits beyond the usual 26 weeks for states that experience a spike in unemployment, which will be completely funded by the federal government.

There are still many unanswered questions about how and when this law will be fully implemented and used by employers and employees. The TCIA Government Relations team has been in contact with the Department of Labor (DOL) to discuss the provisions of this law mentioned above. We will continue to keep all TCIA members apprised of any news or updates that we hear from DOL on this law, new bills being introduced to address COVID-19, and other regulations created by local, state, and federal governments.