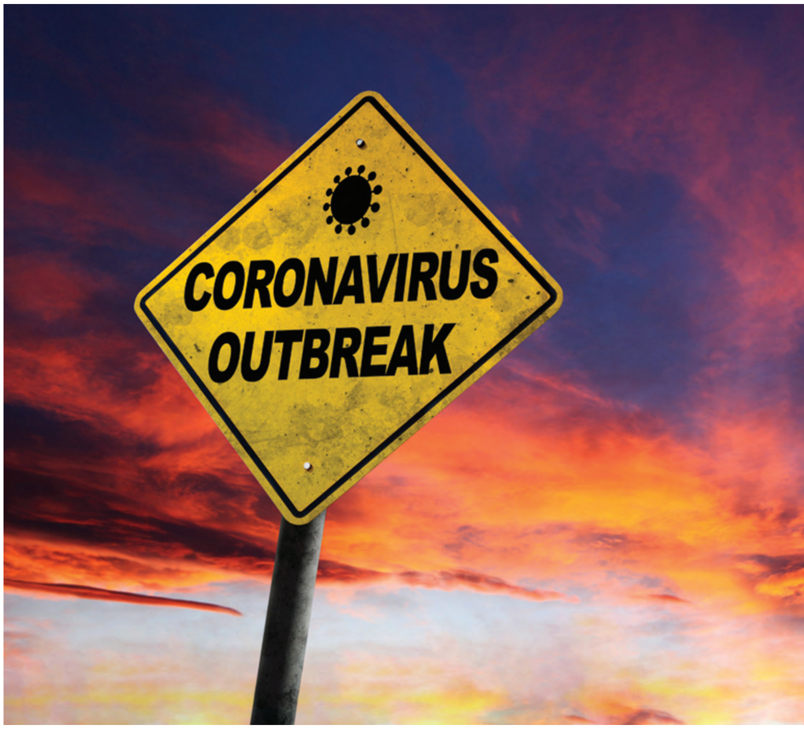
# Navigating the New Coronavirus Laws

BY KATHERINE WITHERSPOON FRY




THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT (the "FFCRA") was signed into law on March 18 and took effect on April 1. The Coronavirus Aid, Relief, and Economic Securities Act (the "CARES Act") was enacted and immediately implemented on March 27. These new laws, which impact an estimated 61 million employees, may enable employers to meet expenses, including payroll, provide paid leave to employees to prevent further spread of COVID-19 in the workplace, and allow workers to collect unemployment benefits if all else fails.

The best approach is proactive: learn the laws' requirements and benefits. Then use the information to make a plan that minimizes exposure to COVID-19, maximizes payroll, and maintains productivity. For instance, dollar-for-dollar tax credits are available for paid leaves and employment taxes. Low-interest and interest-free loans are available to pay employees, and employers may delay payment of the employer's share of Social Security taxes. Learn the available options and document expenses.

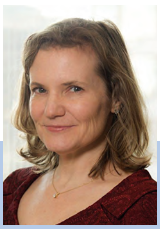
Adhere to the specific provisions of the FFCRA in order to prevent spread of COVID-19 in the workplace during times when essential businesses continue to function. Business owners should be aware that after 2020, when the law is no longer in force, employees are likely to pursue a significant amount of litigation for violations of the law. Moreover, the Department of Labor historically aggressively pursues employers who violate the Fair Labor Standards Act; the FFCRA will be enforced under the same standards. The penalties, which include back pay to workers, double damages, and a fine for willful violation, are hefty. Note that the Department of Labor will not penalize employers for failure to comply until April 18, as long as they acted in good faith to do so prior to that time.

The FFCRA requires employers of up to 500 employees to provide two weeks of paid sick leave when the worker is not able to report to work or telework, in the following circumstances: 1) to seek treatment for COVID-19 and to recover; 2) when ordered to do so, to self-quarantine due to exposure to COVID-19; 3) to care for someone whom the employee would be expected to tend when ill or ordered to quarantine; and 4) to care for their children whose schools or daycares are closed, or who are not able to care for themselves due to a disability, at two-thirds of regular pay. This law covers all employees, whether full-time or part-time, including those jointly employed by another employer, such as a temporary agency. The amount payable is capped at $500 per day. There are exemptions for health care workers and first responders.

The second type of leave mandated by the FFCRA is an additional 10 weeks of leave at two-thirds regular pay to care for children, as set forth above, for those who have been employed for 30 days or who are re-hired during 2020. The amount payable is capped at $200 per day. Again, this paid leave is only mandated when the employee is unable to work or telework. However, employers and employees may agree to work part-time and take intermittent leave totaling 10 weeks. The law encourages flexibility in granting leave, and this may benefit the employee who has the ability to work part-time and share leave with a spouse, for instance. Employers of less than 50 may apply for exemption from this portion of the FFCRA under certain circumstances such as when the worker's absence would make it impossible for the company to function.

In addition to understanding the leave provisions, employers should also avail themselves of the loans, employment-tax deferrals, and other benefits offered under the CARES Act to meet payroll and other employee expenses. The CARES Act also increased availability of unemployment benefits, including part-time benefits for employees whose hours are cut due to economic downturn, while lowering or eliminating requirements to search for work while furloughed or working reduced hours. If companies can't afford payroll, even with available loans and tax credits, this allows workers to collect unemployment at the regular rate plus $600.00 per week for 13 weeks and regular unemployment for an additional 26 weeks.

Education is the key to navigating these straits. Knowledge of these laws enables employers to maximize benefits to employees while ensuring workplace safety during this storm. This may provide all parties with a little sorely-needed peace of mind. ■



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