

# MEMORANDUM

**TO:** ATU U.S. Local Union Presidents and Financial Secretaries

**FROM:** John A. Costa, International President 

**DATE:** March 20, 2020

**RE:** Federal Paid Sick and FMLA Leave for Coronavirus (H.R. 6201 Families First Coronavirus Response Act)

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This is to update all U.S. ATU local unions on federal legislation related to the novel coronavirus (COVID-19) outbreak. On March 18, 2020, the Families First Coronavirus Response Act was signed into law. **This law creates two weeks of paid sick leave for reasons related to COVID-19 for eligible employees, in addition to any existing employer-provided leave. This law also creates a new ground for family medical leave relating to care for a child as a result of the closure of schools or unavailability of childcare due to COVID-19 for eligible employees, with 2/3 wage replacement.** These provisions will go into effect within the next two weeks and will “sunset” on December 31, 2020. I have provided a general summary and a Q&A on the law below.

## I. Paid Sick Leave

The Families First Coronavirus Response Act establishes two-weeks’ paid sick leave for eligible employees affected by COVID-19.

- ATU members at public employers (of any size) are covered, including publicly-operated transit and school bus systems, and local government. ATU members at private transit and school bus contractors, and at over-the-road properties, will be covered only if the employer has fewer than 500 employees. We therefore expect First Group, Transdev, MV Transportation, National Express, RATP Dev, Keolis and Coach USA to argue that they are not covered by this law. Small businesses with fewer than 50 employees can be exempted.
- Full-time employees are entitled to 80 hours of paid leave. Part-time employees are entitled to the number of hours they receive on average over a two-week period.
- Eligible employees may take this leave for their own personal care if they are subject to a quarantine order related to COVID-19, have been told by a healthcare provider to self-quarantine related to COVID-19, or are experiencing COVID-19 symptoms and seeking a diagnosis.

- Eligible employees may also take this leave to care for a family member who is subject to a quarantine order related to COVID-19 or has been told by a healthcare provider to self-quarantine related to COVID-19, or to care for a child whose school is closed or whose childcare is unavailable due to COVID-19.
- The leave is paid at full wage replacement (capped at \$511 per day) if it is used for an employee's own health and is paid at 2/3 wage replacement (capped at \$200 per day) if used to care for a family member.
- This sick leave is in addition to any existing sick leave provided for in these employees' collective bargaining agreements, and employers are prohibited from requiring employees to use accrued their paid leave prior to this newly-established leave.

## **II. Family and Medical Leave**

The Families First Coronavirus Response Act essentially establishes a new permitted reason to take FMLA leave, but this leave is to be paid at 2/3 wage replacement.

- ATU members at public employers (of any size) are covered, including publicly-operated transit and school bus systems, and local government. ATU members at private transit and school bus contractors, and at over-the-road properties, will be covered only if the employer has fewer than 500 employees. We therefore expect First Group, Transdev, MV Transportation, National Express, RATP Dev, Keolis and Coach USA to argue that they are not covered by this law. Small businesses with fewer than 50 employees may be exempted, and employees at employers with less than 25 employees may not be entitled to return to his or her job.
- Eligible employees are entitled to 12 weeks of job-protected emergency paid family and medical leave to care for a child whose school has been closed, or whose childcare provider is unavailable due to a public health emergency related to COVID-19.
- To not overlap with the new paid sick leave, the first ten days of this leave are unpaid; then the leave is paid at 2/3 wage replacement (capped at \$200 per day and \$10,000 total).

**Q:** What if a member needs to take time away from work but does not strictly meet the "triggers" in the new law?

**A:** In that situation, one would look to the leave provisions in the CBA, any specially negotiated MOU, and benefits under state law, if applicable. Unemployment insurance may otherwise be available.

**Q:** How does this apply to new employees?

**A:** Employees who have been at an employer for less than 30 days are entitled to paid sick leave under this law, but not the emergency family and medical leave.

**Q:** What if I have a negotiated MOU which covers Pandemic Leave? Does the legislation supersede?

**A:** This paid sick leave is intended to be in addition to existing leave. Employers may not require workers to use accrued paid leave before using this new paid sick leave program.

If you have a specific inquiry about these new leave provisions and how they apply at your properties, please email [coronavirusalert@atu.org](mailto:coronavirusalert@atu.org) and note “LEAVE ISSUE” in the subject line of your email.

- c: Javier M. Perez Jr., International Executive Vice President, ATU  
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