

House Bill 699

By: Representatives Frye of the 118th, Beverly of the 143rd, Neal of the 74th, Kendrick of the 93rd, Wilson of the 80th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial
2 relations, so as to provide protections for workers against COVID-19; to prohibit adverse
3 employment actions against workers who report the lack of worksite health and safety
4 practices or who wear their own personal protective equipment; to provide for definitions;
5 to provide for a civil cause of action and for damages and other relief; to provide for certain
6 presumptions and limitations of actions; to provide for related matters; to repeal conflicting
7 laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,
11 is amended by adding a new Code section to read as follows:

12 "34-1-11.

13 (a) As used in this Code section, the term:

14 (1) 'Adverse employment action' means to discharge; negatively affect a worker's
15 compensation, promotion, demotion, transfer, work assignment, or performance
16 evaluation; or in any other manner discriminate or retaliate against a worker.

(2) 'COVID-19' means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), and any mutation or viral fragments thereof, or any disease or condition caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), which were the subject of the public health state of emergency declared by the Governor on March 14, 2020.

(3) 'Employer' means any person or entity that employs one or more workers.

(4) 'Hand sanitizer' means alcohol based hand sanitizer that is at least 60 percent alcohol.

(5) 'Worker' means any individual who is paid to perform services for an employer.

(6) 'Worksite' means one or more physical locations controlled by the employer where the employer's business is performed.

(b) Notwithstanding any other provision of law, employers at a minimum shall implement policies and procedures that provide for:

(1) Social distancing by requiring that a distance of six feet be maintained between workers, and between workers and other individuals who enter the worksite, by using one or more of the following measures:

(A) Implementing flexible worksites, such as telework;

(B) Implementing flexible work hours, such as staggered shifts;

(C) Increasing physical space between workers at the worksite to six feet;

(D) Increasing physical space between workers and other individuals who enter the worksite, such as utilizing partitions and limiting the number of individuals in certain spaces within the worksite;

(E) Implementing flexible meeting and travel options;

(F) Reconfiguring work spaces and common areas within the worksite;

(G) Delivering services remotely, as applicable, such as over the phone or internet or by using video and other technology; and

(H) Delivering products, as applicable, through curbside pick-up, delivery, or other methods;

(2) The employer shall provide at the employer's cost all workers with double-layer cotton face masks. Face shields shall also be made available to a worker upon request at no cost to such a worker. The employer shall require all individuals with whom any worker is required to interact with in person to wear a face mask;

(3) The employer shall provide hand sanitizers and ensure that such hand sanitizers are readily available in multiple locations at the worksite. Employers shall also provide a place for workers to regularly wash their hands with soap and water. Gloves shall be provided by the employers to any worker upon request;

(4) The employer shall ensure that all frequently touched surfaces at the worksite, such as workstations, touchscreens, telephones, handrails, and doorknobs, are regularly cleaned and disinfected;

(5) The employer shall ensure that there is adequate outdoor air circulating within any enclosed space in which a worker is asked to enter and work;

(6) When any worker is confirmed through testing or other means approved by the employer to have COVID-19, the employer must inform such worker's fellow workers of the likelihood of possible exposure to COVID-19 at the worksite while keeping the infected worker's identity confidential as required under federal and state law; and

(7) When a worker is suspected or confirmed to have COVID-19, the employer shall close off areas of the worksite visited by such worker, ventilate such areas, and conduct adequate cleaning and disinfection of such area.

(c) No employer or agent of the employer shall take any adverse employment action against a worker for raising any concern about worksite health and safety practices or hazards related to COVID-19 to the employer, the employer's agent, other worker, a government agency, or to the public such as through print, online, social, or any other media.

(d) No employer or agent of the employer shall attempt to require any worker to sign a contract or other agreement that would limit or prevent the worker from disclosing

information about worksite health and safety practices or hazards related to COVID-19, or to otherwise abide by a worksite policy that would limit or prevent such disclosures. Any such agreements or policies shall be declared void and unenforceable as contrary to the public policy of the State of Georgia. Any attempt to impose such a contract, agreement, or policy shall constitute a violation of this Code section.

(e) No employer shall take any adverse employment action against a worker who voluntarily brings in and wears his or her own personal protective equipment, such as a mask, face shield, or gloves, if such equipment is similar in nature but has a higher safety rating or has been determined by the department of public health to provide a higher level of protection than the equipment provided by the employer.

(f)(1) A worker shall have the right to refuse to work under conditions that the worker reasonably believes would expose him or her, other workers, or the public to an unreasonable risk of illness or exposure to COVID-19.

(2) An employer shall not take any adverse employment action against a worker for a good faith refusal to work if the worker has requested that the employer correct such a condition and the condition remains uncorrected.

(3) A worker who has refused in good faith to work under such a condition and who has not been reassigned to other work by the employer shall:

(A) Be allowed to continue employment with the employer, unless or until other permissible reasons arise for termination; and

(B) Continue to be paid by the employer for the hours that would have been worked until such time as the employer can demonstrate that such condition has been remedied.

(g) If an employer or the employer's agent takes any adverse employment action against a worker within 90 days of the worker's engagement or attempt to engage in activities protected by this Code section, such conduct shall raise a presumption that such adverse employment action was taken in violation of this Code section. Such presumption may

only be rebutted by clear and convincing evidence that the adverse employment action was taken for other permissible reasons.

(h) A worker may bring a civil action against an employer or an agent of the employer in a court of competent jurisdiction within three years of any alleged violation of subsections (c) through (g) of this Code section. The Attorney General or a district attorney may also enforce the requirements of subsections (c) through (g) of this Code section, acting in the public interest, including the need to deter future violations. The Attorney General, or his or her designees, may inspect worksites and subpoena records and witnesses and, when a violation has been determined to have occurred, may bring a civil action for any violations.

(i) In a civil action brought under this Code section, the court may provide for:

(1) An injunction to order compliance with the requirements of this Code section and to restrain continued violations, including through a stop-work order or business closure;

(2) Reinstatement of the worker to the same position held prior to any adverse employment action, or to an equivalent position; reinstatement of full fringe benefits and seniority rights; compensation for unpaid wages, benefits, and other remuneration; or front pay in lieu of reinstatement of position or benefits, rights, wages, or other remuneration;

(3) Compensatory damages payable to the aggrieved worker equal to the greater of \$5,000.00 or twice the actual damages, including but not limited to, unpaid wages, benefits and other remuneration, as well as punitive damages;

(4) Payment to a prevailing worker by the employer of reasonable costs and attorney's fees; and

(5) Any other relief the court deems appropriate."

SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.