

119TH CONGRESS
2D SESSION

S. _____

To require employers to provide paid annual leave to employees, and for
other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. SANDERS (for himself, Mr. MURPHY, Mr. MARKEY, Mr. GALLEG0, and
Mr. PADILLA) introduced the following bill; which was read twice and re-
ferred to the Committee on _____

A BILL

To require employers to provide paid annual leave to
employees, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Guaranteed Paid Vaca-
5 tion Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **COMMERCE.**—The terms “commerce” and
9 “industry or activity affecting commerce”—

1 (A) mean any activity, business, or indus-
2 try in commerce or in which a labor dispute
3 would hinder or obstruct commerce or the free
4 flow of commerce; and

5 (B) include “commerce” and “industry af-
6 fecting commerce”, as defined in paragraphs
7 (1) and (3) of section 501 of the Labor Man-
8 agement Relations Act, 1947 (29 U.S.C. 142(1)
9 and (3)).

10 (2) COVERED EMPLOYEE.—The term “covered
11 employee” means an individual who is—

12 (A)(i) an employee who is not covered
13 under any other provision of this paragraph;

14 (ii) an employee of the Government Ac-
15 countability Office; or

16 (iii) an employee of a covered employer de-
17 scribed in paragraph (3)(B)(i)(V);

18 (B) a State employee described in section
19 304(a) of the Government Employee Rights Act
20 of 1991 (42 U.S.C. 2000e–16c(a)), other than
21 an applicant for employment;

22 (C) a covered employee, as defined in sec-
23 tion 411(c) of title 3, United States Code;

24 (D) a covered employee, as defined in sec-
25 tion 101 of the Congressional Accountability

1 Act of 1995 (2 U.S.C. 1301), other than an ap-
2 plicant for employment; or

3 (E) a Federal officer or employee covered
4 under subchapter V of chapter 63 of title 5,
5 United States Code (without regard to the limi-
6 tation in section 6381(1)(B) of that title), who
7 is not covered under subparagraph (C).

8 (3) EMPLOYER.—

9 (A) IN GENERAL.—The term “employer”
10 means any person who is—

11 (i)(I) a covered employer who is not
12 described in any other subclause of this
13 clause;

14 (II) an entity employing a State em-
15 ployee described in section 304(a) of the
16 Government Employee Rights Act of 1991;

17 (III) an employing office, as defined
18 in section 101 of the Congressional Ac-
19 countability Act of 1995 (2 U.S.C. 1301);

20 (IV) an employing office, as defined in
21 section 411(c) of title 3, United States
22 Code; or

23 (V) an employing agency covered
24 under subchapter V of chapter 63 of title
25 5, United States Code; and

(ii) engaged in commerce (including government), or an industry or activity affecting commerce (including government).

(B) COVERED EMPLOYER.—

(i) IN GENERAL.—In subparagraph (A)(i)(I), the term “covered employer”—

(I) means any person engaged in commerce or in any industry or activity affecting commerce who employs 1 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding year;

(II) includes the Government Accountability Office and the Library of Congress;

(III) includes any public agency;

(IV) includes—

(aa) any person who acts, directly or indirectly, in the interest of an employer covered by this clause to any of the employees of such employer; and

(bb) any successor in interest of such an employer; and

1 (V) includes any carrier (as such
2 term is defined in section 1 of the
3 Railway Labor Act (45 U.S.C. 151))
4 and any carrier by air (as described in
5 section 201 of such Act (45 U.S.C.
6 181)).

7 (ii) PUBLIC AGENCY.—For purposes
8 of clause (i)(III), a public agency shall be
9 considered to be a person engaged in com-
10 merce or in an industry or activity affect-
11 ing commerce.

12 (C) PREDECESSORS.—Any reference in
13 this paragraph to an employer shall include a
14 reference to any predecessor of such employer.

15 (4) PAID ANNUAL LEAVE.—The term “paid an-
16 nual leave”—

17 (A) subject to subparagraph (B), means
18 paid vacation leave, paid personal leave, paid
19 leave provided on an annual basis (provided
20 under this Act or otherwise), or any other form
21 of paid leave provided to a covered employee by
22 the employer of such covered employee to be
23 used during a period (other than nonworkdays
24 established by State or Federal law) in which
25 the covered employee would otherwise work; and

1 (B) does not include—

2 (i) leave provided under the Family
3 and Medical Leave Act of 1993 (29 U.S.C.
4 2601, et seq.);

5 (ii) leave (paid or unpaid) that is pro-
6 vided by an employer of a covered em-
7 ployee, including such leave required by
8 Federal, State, or local law, and is—

9 (I) family or medical leave;

10 (II) sick leave;

11 (III) bereavement leave

12 (IV) leave related to the adoption
13 or fostering of a child;

14 (V) leave related to domestic vio-
15 lence, sexual assault, or stalking;

16 (VI) leave with respect to a pub-
17 lic health emergency;

18 (VII) leave for a holiday estab-
19 lished by Federal, State, or local law;
20 or

21 (VIII) leave for jury duty, for a
22 civic duty, or to vote; or

23 (iii) any absence or paid leave under
24 workers' compensation or a disability plan.

1 (5) SECRETARY.—The term “Secretary” means
2 the Secretary of Labor.

3 (6) FLSA DEFINITIONS.—

4 (A) IN GENERAL.—Except as provided in
5 subparagraph (B), the terms “employ”, “em-
6 ployee”, “person”, “public agency”, “State”,
7 and “tipped employee” have the meanings given
8 the terms in section 3 of the Fair Labor Stand-
9 ards Act of 1938 (29 U.S.C. 203).

10 (B) EMPLOYEE.—For purposes of para-
11 graph (2)(A)(i), the term “employee” has
12 meaning given the term in section 3 of the Fair
13 Labor Standards Act of 1938 (29 U.S.C. 203),
14 except that a reference in such section to an
15 employer shall be considered a reference to an
16 employer described in paragraph (3)(A)(i)(I)

17 **SEC. 3. EARNED PAID ANNUAL LEAVE.**

18 (a) EARNING OF PAID ANNUAL LEAVE.—

19 (1) EARNING OF ANNUAL LEAVE.—An employer
20 shall provide each covered employee employed by the
21 employer not less than 1 hour of paid annual leave
22 for every 25 hours worked by the covered employee.

23 (2) LIMITATION.—

24 (A) IN GENERAL.—For purposes of com-
25 plying with paragraph (1), an employer shall

1 not be required to provide more than 80 hours
2 of paid annual leave to a covered employee dur-
3 ing any 12-month period.

4 (B) GREATER THAN 80 HOURS OF PAID
5 ANNUAL LEAVE.—In determining the amount of
6 hours provided to a covered employee for pur-
7 poses of limitation under subparagraph (A), an
8 employer may not include—

9 (i) any earned and unused paid an-
10 nual leave that is carried over by the cov-
11 ered employee from a previous 12-month
12 period under subsection (b)(5);

13 (ii) any leave acquired by the covered
14 employee through equitable relief provided
15 under section 6 for a violation of section 5;
16 or

17 (iii) any leave reinstated to the cov-
18 ered employee under subsection (d)(2)(A).

19 (C) RULE OF CONSTRUCTION.—This sec-
20 tion shall not be construed to preclude an em-
21 ployer from providing more than 80 hours of
22 paid annual leave.

23 (3) COMMENCEMENT OF EARNING PAID AN-
24 NUAL LEAVE.—A covered employee shall begin to

1 earn paid annual leave at the commencement of em-
2 ployment of such covered employee.

3 (4) OVERTIME AND MINIMUM WAGE EXEMPT
4 EMPLOYEE.—For purposes of this section, a covered
5 employee who is exempt from overtime and min-
6 imum wage requirements under section 13(a) of the
7 Fair Labor Standards Act of 1938 (29 U.S.C.
8 213(a)) shall be deemed to work 40 hours in each
9 workweek.

10 (b) USE OF PAID ANNUAL LEAVE.—

11 (1) IN GENERAL.—Paid annual leave earned
12 under subsection (a)(1) may be used by a covered
13 employee for any reason.

14 (2) TIMING.—Subject to paragraphs (2) and
15 (3) of subsection (c) and except as provided in sub-
16 section (d)(2), a covered employee may use paid an-
17 nual leave earned by the covered employee under
18 subsection (a)(1) at any time after the leave is
19 earned during, except as provided in paragraph (5),
20 the 12-month period after the leave is earned.

21 (3) RATE OF COMPENSATION.—

22 (A) IN GENERAL.—Except as provided in
23 subparagraph (B), a covered employee using
24 paid annual leave earned under subsection
25 (a)(1) shall be compensated, for the period that

1 the covered employee is using such leave, at the
2 regular rate at which the covered employee
3 would have been paid for such period if the cov-
4 ered employee were not using the paid annual
5 leave.

6 (B) TIPPED EMPLOYEE.—For the pur-
7 poses of subparagraph (A), a covered employee
8 who is a tipped employee shall be compensated,
9 for the period that such employee is using paid
10 annual leave earned under subsection (a)(1), at
11 a rate equivalent to the greater of—

12 (i) the minimum wage required under
13 section 6(a) of the Fair Labor Standards
14 Act of 1938 (29 U.S.C. 206(a));

15 (ii) the applicable State minimum
16 wage;

17 (iii) the applicable local minimum
18 wage;

19 (iv) any other wage rate required by
20 Federal, State, or local law; or

21 (v) the regular rate at which the em-
22 ployee is employed.

23 (4) LOANING OF ANNUAL LEAVE.—

24 (A) LOANED LEAVE.—An employer may
25 loan paid annual leave to a covered employee

1 for use by such covered employee in advance of
2 the covered employee earning such paid annual
3 leave under subsection (a)(1).

4 (B) USE OF LOANED LEAVE.—Except as
5 provided in subparagraph (C), paid annual
6 leave loaned under subparagraph (A) shall be
7 treated as if earned under subsection (a)(1).

8 (C) REIMBURSEMENT FOR LOANED
9 LEAVE.—

10 (i) IN GENERAL.—An employer may
11 require a covered employee of such em-
12 ployer to reimburse the employer for any
13 paid annual leave loaned under subpara-
14 graph (A) that such covered employee has
15 not earned at the time of the termination
16 of the employment of the covered em-
17 ployee.

18 (ii) RATE.—Reimbursement under
19 clause (i) shall be at the applicable rate de-
20 scribed in paragraph (3).

21 (5) CARRYOVER.—An employer shall permit a
22 covered employee of such employer to carry over not
23 more than 40 hours of any earned and unused paid
24 annual leave under subsection (a)(1) in a 12-month

1 period to be used by the covered employee in the fol-
2 lowing 12-month period.

3 (6) INCREMENTS OF USE OF PAID ANNUAL
4 LEAVE.—An employer shall allow any covered em-
5 ployee to use paid annual leave earned under sub-
6 section (a)(1) in increments of the smaller of—

7 (A) an hour; or

8 (B) the smallest increment of time that the
9 employer’s payroll system uses to account for
10 absences or use of other time.

11 (7) BENEFITS RETAINED DURING LEAVE.—

12 (A) IN GENERAL.—An employer shall
13 maintain any employment benefits provided to a
14 covered employee during any period in which
15 the covered employee takes paid annual leave,
16 and such benefits shall be provided in the same
17 manner as if the covered employee had contin-
18 ued in employment continuously for the dura-
19 tion of such leave.

20 (B) EMPLOYMENT BENEFITS.—For pur-
21 poses of subparagraph (A), the term “employ-
22 ment benefits” has the meaning given such
23 term in section 101 of the Family and Medical
24 Leave Act of 1993 (29 U.S.C. 2611), except
25 that a reference in such section to the terms

1 employee and employer shall be considered a
2 reference to a covered employee and employer
3 (as such terms are defined in section 2), respec-
4 tively.

5 (c) PROCEDURES FOR USE OF PAID ANNUAL
6 LEAVE.—

7 (1) IN GENERAL.—Subject to paragraph (3), a
8 covered employee may use paid annual leave earned
9 under subsection (a)(1) upon a verbal or written no-
10 tification by the covered employee to the employer of
11 the covered employee as provided in paragraph (2).

12 (2) EMPLOYEE NOTIFICATION.—

13 (A) FORMAT OF NOTICE.—An employer
14 may not specify whether the notification under
15 paragraph (1) is provided through a verbal no-
16 tice or a written notice.

17 (B) NOTICE SAMPLES.—The Secretary
18 shall create samples for verbal and written no-
19 tices required under paragraph (1).

20 (C) TIMING OF NOTICE.—A covered em-
21 ployee shall provide notice regarding an intent
22 to use paid annual leave under paragraph (1)
23 on a day that is—

1 (i) before the day on which the cov-
2 ered employee intends to use the paid an-
3 nual leave; and

4 (ii) not more than 14 days before the
5 day on which the covered employee intends
6 to use the paid annual leave.

7 (D) EMERGENCY OR UNFORESEEABLE USE
8 OF LEAVE.—Notwithstanding subparagraph
9 (C), an employer shall waive any notice require-
10 ment and allow the use of paid annual leave
11 earned under subsection (a)(1) in the case of an
12 emergency or a situation in which a covered
13 employee can not provide timely notice to an
14 employer for the use the paid annual leave.

15 (3) REASONABLE RESTRICTIONS.—

16 (A) IN GENERAL.—Notwithstanding para-
17 graph (1), an employer may—

18 (i) place limited, reasonable restric-
19 tions regarding the scheduling of paid an-
20 nual leave earned under subsection (a)(1)
21 for a bona fide business reason; and

22 (ii) reject a scheduling request under
23 paragraph (1) for such leave for a bona
24 fide business reason.

25 (B) LIMITATION ON REJECTION.—

15

1 (i) IN GENERAL.—An employer may
2 not reject a request by a covered employee
3 under subparagraph (A)(ii) unless the em-
4 ployer—

5 (I) provides other reasonable al-
6 ternative times, as described in clause
7 (ii), for the covered employee to
8 schedule such leave; and

9 (II) complies with the notice re-
10 quirement described in clause (iii).

11 (ii) REASONABLE ALTERNATIVES.—

12 (I) IN GENERAL.—A reasonable
13 alternative time described in this
14 clause is a date other than a date a
15 covered employee requests to use paid
16 annual leave that is within 30 days
17 before or after the date requested by
18 the covered employee.

19 (II) EXPIRATION OF PAID
20 LEAVE.—An employer may not offer a
21 reasonable alternative time described
22 in this clause to prevent the use of
23 paid annual leave that is set to expire.

24 (iii) DENIAL NOTICE.—In any case in
25 which an employer rejects a request of a

1 covered employee to use paid annual leave
2 under subparagraph (A)(ii), the employer
3 shall, not later than 5 business days after
4 the day the covered employee made such
5 request, provide to the covered employee a
6 written notice—

7 (I) detailing the bona fide busi-
8 ness reason for such denial; and

9 (II) that provides the reasonable
10 alternative time described in clause
11 (ii).

12 (4) PURPOSE OF USE OF PAID ANNUAL
13 LEAVE.—An employer may not require a covered
14 employee to disclose the purpose or reason for which
15 the covered employee is using paid annual leave
16 under subsection (a)(1).

17 (5) PROHIBITION ON FINDING COVER.—An em-
18 ployer may not require, as a condition of using paid
19 annual leave earned under subsection (a)(1), that a
20 covered employee search for or find a replacement to
21 cover the hours during which the covered employee
22 is using such paid annual leave.

23 (6) GUIDANCE.—Not later than 180 days after
24 the date of enactment of this Act, the Secretary
25 shall provide guidance to employers on compliance

1 with paragraph (3), including by defining the terms
2 “limited, reasonable restriction” and “bona fide
3 business reason”.

4 (d) PROCEDURES REGARDING LEAVE FOR EM-
5 PLOYEE SEPARATION.—

6 (1) COMPENSATION.—In any case in which the
7 employment of a covered employee is terminated and
8 such covered employee has unused paid annual leave
9 earned under subsection (a)(1) (including any leave
10 carried over under subsection (b)(5)), the employer
11 of the covered employee shall provide financial com-
12 pensation, at the applicable rate described in sub-
13 section (b)(3), to such covered employee for all such
14 paid annual leave earned by the covered employee
15 that is unused as of the date of the termination.

16 (2) REINSTATEMENT.—If the employment of a
17 covered employee with an employer is terminated
18 and the covered employee is subsequently rehired by
19 the employer within 12 months after that termi-
20 nation—

21 (A) in a case in which the covered em-
22 ployee had paid annual leave (other than paid
23 annual leave earned under subsection (a)(1)
24 and compensated for under paragraph (1)) that
25 was not compensated for by the employer at the

1 applicable rate described under subsection
2 (b)(3) (as if such paid annual leave was paid
3 annual leave earned under subsection (a)(1)),
4 the employer shall reinstate such paid annual
5 leave to the covered employee; and

6 (B) the covered employee shall be entitled
7 to use such leave and earn additional paid an-
8 nual leave under subsection (a)(1) at the re-
9 commencement of employment with the em-
10 ployer.

11 **SEC. 4. EMPLOYER NOTICE AND SYSTEM REQUIREMENTS.**

12 (a) EMPLOYER NOTICE REQUIREMENT.—An em-
13 ployer shall notify each covered employee of the employer
14 about the paid annual leave policy of such employer, which
15 shall include the information described in subsection (b),
16 by—

17 (1) providing such information, in writing, to
18 each covered employee on or before the first day of
19 employment of such covered employee;

20 (2) including such information in any employee
21 handbook; and

22 (3) posting a notice containing such informa-
23 tion in a physical conspicuous place on the premises
24 of the employer or a virtual conspicuous place, where
25 notices to employees are customarily posted.

1 (b) CONTENTS.—The information provided pursuant
2 to subsection (a) shall include—

3 (1) the paid annual leave policy of such em-
4 ployer, including any paid annual leave policy that
5 provides paid annual leave in excess of the require-
6 ments of this Act;

7 (2) information—

8 (A) pertaining to the filing of an action
9 under section 6;

10 (B) regarding the protections that a cov-
11 ered employee has in exercising rights under
12 this Act; and

13 (C) on how the covered employee can con-
14 tact the Secretary (or other appropriate author-
15 ity as described in section 6) if any such rights
16 are violated; and

17 (3) details of any notice requirement the em-
18 ployer may require, as described in section 3(c)(2).

19 (c) SYSTEM REQUIREMENT.—Each employer shall
20 establish a system, such as through an online portal, writ-
21 ten request, or through pay stubs, to inform each covered
22 employee of the employer how much paid annual leave
23 each covered employee has earned.

24 (d) GUIDANCE.—Not later than 180 days after the
25 date of enactment of this Act, the Secretary shall provide

1 guidance to employers on compliance with this section, in-
2 cluding regarding sample notices and systems.

3 **SEC. 5. PROHIBITED ACTS.**

4 (a) INTERFERENCE WITH RIGHTS.—It shall be un-
5 lawful for any employer to interfere with, restrain, or deny
6 the exercise of, or the attempt to exercise, any right pro-
7 vided under this Act, including—

8 (1) violating any provision of section 3 or 4;

9 (2) discharging or discriminating against (in-
10 cluding retaliating against) any individual, including
11 a job applicant, for exercising or attempting to exer-
12 cise, any right provided under this Act;

13 (3) using the taking of paid annual leave pro-
14 vided under this Act as a negative factor in an em-
15 ployment action, such as hiring, promotion, reducing
16 hours or numbers of shifts, or a disciplinary action;
17 or

18 (4) counting the use of such paid annual leave
19 under a no-fault attendance policy or any other ab-
20 sence-control policy.

21 (b) INTERFERENCE WITH PROCEEDINGS OR INQUIR-
22 IES.—It shall be unlawful for any person to discharge or
23 in any other manner discriminate against (including retali-
24 ating against) any individual, including a job applicant,
25 because such individual—

1 (1) has filed an action under section 6, or has
2 instituted or caused to be instituted any proceeding,
3 under this Act;

4 (2) has given, or intends to give, any informa-
5 tion in connection with any inquiry or proceeding re-
6 lating to any right provided under this Act; or

7 (3) has testified, or intends to testify, in any in-
8 quiry or proceeding relating to any right provided
9 under this Act.

10 (c) IMPERMISSIBLE CONSIDERATION.—A violation of
11 subsection (a) or (b) shall be established when a com-
12 plaining party demonstrates that the complaining party
13 exercising any right provided under this Act was a moti-
14 vating factor in any action described in subsection (a) or
15 (b) against the complaining party, even if other factors
16 also motivated the action.

17 **SEC. 6. ENFORCEMENT AND INVESTIGATIVE AUTHORITY.**

18 (a) IN GENERAL.—

19 (1) DEFINITION.—In this subsection—

20 (A) the term “employee” means a covered
21 employee described in subparagraph (A) or (B)
22 of section 2(2); and

23 (B) the term “employer” means an em-
24 ployer described in subclause (I) or (II) of sec-
25 tion 2(3)(A)(i).

1 (2) INVESTIGATIVE AUTHORITY.—

2 (A) IN GENERAL.—To ensure compliance
3 with this Act, or any regulation or order issued
4 under this Act, the Secretary shall have, subject
5 to subparagraph (C), the investigative authority
6 provided under section 11(a) of the Fair Labor
7 Standards Act of 1938 (29 U.S.C. 211(a)),
8 with respect to employers, employees, and other
9 individuals affected by an employer.

10 (B) OBLIGATION TO KEEP AND PRESERVE
11 RECORDS.—An employer shall make, keep, and
12 preserve records pertaining to compliance with
13 this Act in accordance with section 11(c) of the
14 Fair Labor Standards Act of 1938 (29 U.S.C.
15 211(c)) and in accordance with regulations pre-
16 scribed by the Secretary.

17 (C) REQUIRED SUBMISSIONS GENERALLY
18 LIMITED TO AN ANNUAL BASIS.—The Secretary
19 may not require, under the authority of this
20 paragraph, an employer to submit to the Sec-
21 retary any books or records more than once
22 during any 12-month period, unless the Sec-
23 retary has reasonable cause to believe there
24 may exist a violation of this Act or any regula-
25 tion or order issued pursuant to this Act, or is

1 investigating a charge pursuant to paragraph
2 (4).

3 (D) SUBPOENA AUTHORITY.—For the pur-
4 poses of any investigation provided for in this
5 paragraph, the Secretary shall have the sub-
6 poena authority provided for under section 9 of
7 the Fair Labor Standards Act of 1938 (29
8 U.S.C. 209).

9 (3) PRIVATE RIGHT OF ACTION.—

10 (A) IN GENERAL.—An action to recover
11 damages or equitable relief prescribed in sub-
12 paragraph (B) may be maintained against any
13 employer in any Federal or State court of com-
14 petent jurisdiction by an employee or individual
15 or a representative for and on behalf of—

16 (i) the employee or individual; or

17 (ii) the employee or individual and
18 others similarly situated.

19 (B) LIABILITY.—Any employer who vio-
20 lates section 5 (including a violation relating to
21 rights provided under section 3) shall be liable
22 to any employee or individual affected—

23 (i) for damages equal to—

24 (I) the amount of—

1 (aa) any wages, salary, em-
2 ployment benefits, or other com-
3 pensation denied or lost by rea-
4 son of the violation; or

5 (bb) in a case in which
6 wages, salary, employment bene-
7 fits, or other compensation have
8 not been denied or lost, any ac-
9 tual monetary losses sustained as
10 a direct result of the violation up
11 to a sum equal to 80 hours of
12 wages or salary for the employee
13 or individual;

14 (II) the interest on the amount
15 described in subclause (I) calculated
16 at the prevailing rate; and

17 (III) an additional amount as liq-
18 uidated damages; and

19 (ii) for such equitable relief as may be
20 appropriate, including employment, rein-
21 statement, and promotion.

22 (C) FEES AND COSTS.—The court in an
23 action under this paragraph shall, in addition to
24 any judgment awarded to the plaintiff, allow a
25 reasonable attorney's fee, reasonable expert wit-

1 ness fees, and other costs to be paid by the de-
2 fendant.

3 (D) LIMITATIONS.—

4 (i) IN GENERAL.—Except as provided
5 in clause (ii), an action may be brought
6 under this paragraph or paragraph (4) not
7 later than 2 years after the date of the last
8 event constituting the alleged violation for
9 which the action is brought.

10 (ii) WILLFUL VIOLATION.—In the
11 case of such an action brought for a willful
12 violation of section 5 (including a willful
13 violation relating to rights provided under
14 section 3), such action may be brought not
15 later than 3 years after the last event con-
16 stituting the alleged violation for which
17 such action is brought.

18 (iii) COMMENCEMENT.—In deter-
19 mining when an action is commenced
20 under this paragraph or paragraph (4) for
21 the purposes of this subparagraph, the ac-
22 tion shall be considered to be commenced
23 on the date when the complaint is filed.

24 (4) ACTIONS BY THE SECRETARY.—

1 (A) ADMINISTRATIVE ACTIONS.—The Sec-
2 retary shall receive, investigate, and attempt to
3 resolve complaints of violations of section 5 in
4 the same manner that the Secretary receives,
5 investigates, and attempts to resolve complaints
6 of violations of sections 6 and 7 of the Fair
7 Labor Standards Act of 1938 (29 U.S.C. 206
8 and 207).

9 (B) CIVIL ACTION.—The Secretary may
10 bring an action in any court of competent juris-
11 diction to recover the damages and equitable re-
12 lief described in paragraph (3)(B).

13 (C) SUMS RECOVERED.—

14 (i) IN GENERAL.—Any sums recovered
15 by the Secretary pursuant to subparagraph
16 (B) shall be held in a special deposit ac-
17 count and shall be paid, on order of the
18 Secretary, directly to each employee or in-
19 dividual affected.

20 (ii) UNPAID RECOVERED SUMS.—

21 (I) IN GENERAL.—Any such
22 sums not paid to an employee or indi-
23 vidual affected because of the inability
24 to do so within a period of 3 years
25 after such recovery shall be deposited

1 into the fund established under sub-
2 clause (II).

3 (II) ESTABLISHMENT.—There is
4 established in the Treasury of the
5 United States a fund for amounts de-
6 posited under subclause (I).

7 (III) DEPOSITS.—Any sums de-
8 posited under subclause (I)—

9 (aa) shall be deposited in
10 the fund established under sub-
11 clause (II)—

12 (AA) notwithstanding
13 section 3302 of title 31,
14 United States Code; and

15 (BB) as offsetting col-
16 lections; and

17 (bb) may be used by the
18 Secretary for enforcement activi-
19 ties, including related to this Act
20 or the Fair Labor Standards Act
21 of 1938.

22 (D) ACTION FOR INJUNCTION BY SEC-
23 RETARY.—The district courts of the United
24 States shall have jurisdiction, for cause shown,
25 in an action brought by the Secretary—

1 (i) to restrain violations of section 5
2 (including a violation relating to rights
3 provided under section 3), including the re-
4 straint of any withholding of wages, salary,
5 employment benefits, or other compensa-
6 tion, plus interest, found by the court to be
7 due to employees or individuals eligible
8 under this Act; or

9 (ii) to award such other equitable re-
10 lief as may be appropriate, including em-
11 ployment, reinstatement, and promotion.

12 (E) SOLICITOR OF LABOR.—The Solicitor
13 of Labor may appear for and represent the Sec-
14 retary on any litigation brought under this
15 paragraph.

16 (5) GOVERNMENT ACCOUNTABILITY OFFICE
17 AND LIBRARY OF CONGRESS.—Notwithstanding any
18 other provision of this section, in the case of the
19 Government Accountability Office and the Library of
20 Congress, the authority of the Secretary under this
21 subsection shall be exercised respectively by the
22 Comptroller General of the United States and the
23 Librarian of Congress.

24 (b) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE
25 3, UNITED STATES CODE.—The powers, remedies, and

1 procedures provided in chapter 5 of title 3, United States
2 Code, to the President, the Merit Systems Protection
3 Board, or any person, alleging a violation of section
4 412(a)(1) of that title, shall be the powers, remedies, and
5 procedures this Act provides to the President, that Board,
6 or any person, respectively, alleging an unlawful employ-
7 ment practice in violation of this Act against an employee
8 described in section 2(2)(C).

9 (c) EMPLOYEES COVERED BY CONGRESSIONAL AC-
10 COUNTABILITY ACT OF 1995.—The powers, remedies, and
11 procedures provided in the Congressional Accountability
12 Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as de-
13 fined in section 101 of that Act (2 U.S.C. 1301)), or any
14 person, alleging a violation of section 202(a)(1) of that
15 Act (2 U.S.C. 1312(a)(1)) shall be the powers, remedies,
16 and procedures this Act provides to that Board, or any
17 person, alleging an unlawful employment practice in viola-
18 tion of this Act against an employee described in section
19 2(2)(D).

20 (d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE
21 5, UNITED STATES CODE.—The powers, remedies, and
22 procedures provided in title 5, United States Code, to an
23 employing agency, provided in chapter 12 of that title to
24 the Merit Systems Protection Board, or provided in that
25 title to any person, alleging a violation of chapter 63 of

1 that title, shall be the powers, remedies, and procedures
2 this Act provides to that agency, that Board, or any per-
3 son, respectively, alleging an unlawful employment prac-
4 tice in violation of this Act against an employee described
5 in section 2(2)(E).

6 (e) REMEDIES FOR STATE EMPLOYEES.—

7 (1) WAIVER OF SOVEREIGN IMMUNITY.—A
8 State's receipt or use of Federal financial assistance
9 for any program or activity of a State shall con-
10 stitute a waiver of sovereign immunity, under the
11 11th Amendment to the Constitution or otherwise,
12 to a suit brought by an employee of that program
13 or activity under this Act for equitable, legal, or
14 other relief authorized under this Act.

15 (2) OFFICIAL CAPACITY.—An official of a State
16 may be sued in the official capacity of the official by
17 any employee who has complied with the procedures
18 under subsection (a)(3), for injunctive relief that is
19 authorized under this Act. In such a suit, the court
20 may award to the prevailing party those costs au-
21 thorized by section 722 of the Revised Statutes (42
22 U.S.C. 1988).

23 (3) APPLICABILITY.—With respect to a par-
24 ticular program or activity, paragraph (1) applies to
25 conduct occurring on or after the day, after the date

1 of enactment of this Act, on which a State first re-
2 ceives or uses Federal financial assistance for that
3 program or activity.

4 (4) PROGRAM OR ACTIVITY DEFINED.—In this
5 subsection, the term “program or activity” has the
6 meaning given the term in section 606 of the Civil
7 Rights Act of 1964 (42 U.S.C. 2000d–4a).

8 (f) COLLECTIVE BARGAINING AGREEMENT RESOLU-
9 TION.—In addition to the enforcement mechanisms under
10 this section, an employee or labor organization may also
11 use a grievance and arbitration procedure of a collective
12 bargaining agreement to enforce collectively bargained
13 provisions relating to paid annual leave.

14 **SEC. 7. EFFECT ON OTHER LAWS AND EXISTING EMPLOY-**
15 **MENT AGREEMENTS.**

16 (a) STATE OR LOCAL LAWS.—

17 (1) GREATER LEAVE RIGHTS.—Nothing in this
18 Act shall be construed to supersede any provision of
19 any State or local law that provides greater paid an-
20 nual leave or other leave rights to covered employees
21 or individuals than the rights established under this
22 Act.

23 (2) DISTINGUISH BETWEEN TYPES OF
24 LEAVE.—For the purposes of this subsection, a
25 State or local law that does not distinguish between

1 time earned for paid annual leave and time earned
2 for sick leave shall be deemed a law that provides
3 lesser paid annual leave or other rights to covered
4 employees or individuals than the rights established
5 under this Act.

6 (b) MORE PROTECTIVE AGREEMENTS.—Nothing in
7 this Act shall be construed to diminish the obligation of
8 an employer to comply with any contract, collective bar-
9 gaining agreement, or any employment benefit program
10 or plan that provides greater paid annual leave or other
11 leave rights to covered employees or individuals than the
12 rights established under this Act.

13 (c) LESS PROTECTIVE AGREEMENTS.—The rights es-
14 tablished for covered employees under this Act shall not
15 be diminished by any contract, collective bargaining agree-
16 ment, or any employment program or plan.

17 **SEC. 8. AWARENESS CAMPAIGN.**

18 (a) IN GENERAL.—Not later than 1 year after the
19 date of enactment of this Act, the Secretary shall carry
20 out a public awareness campaign to inform the public
21 about the earned paid annual leave entitlement established
22 under this Act, which shall include information about—

23 (1) the rights provided to a covered employee
24 under this Act; and

1 (2) resources available to a covered employee if
2 the employee believes the rights provided under this
3 Act have been violated.

4 (b) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated such sums as are nec-
6 essary to carry out this section.

7 **SEC. 9. EFFECTIVE DATES.**

8 (a) EFFECTIVE DATE.—Except as provided in sub-
9 section (b), this Act shall take effect 180 days after the
10 date of enactment of this Act.

11 (b) COLLECTIVE BARGAINING AGREEMENTS.—In the
12 case of an applicable collective bargaining agreement in
13 effect on the effective date prescribed under subsection
14 (a), the Act shall take effect on the earlier of—

15 (1) the date of the termination of such agree-
16 ment;

17 (2) the date of any amendment, made on or
18 after such effective date, to such agreement; or

19 (3) the date that occurs 18 months after such
20 effective date.