



SPONSOR: Sen. S. McBride & Rep. Heffernan
Sen. Sokola; Reps. Baumbach, Neal, Osienski

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 248

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 37, Title 19 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows and by redesignating accordingly:

3 § 3701. Definitions.

4 (7) a. "Employer" means all those who employ employees working anywhere in this State.

5 1. Employers with 10 to 24 employees during the previous 12 months shall be subject to only the parental leave
6 provisions of this chapter. For purposes of this paragraph (7)a.1., "employees" includes those who meet the requirements of
7 a covered individual under paragraphs (3)a. and (3)b. of this section or are reasonably expected to meet the requirements of
8 a covered individual under paragraphs (3)a. and (3)b. of this section during the previous 12 months.

9 2. Employers with 25 or more employees during the previous 12 months shall be subject to all parental, family
10 caregiving, and medical leave provisions of this chapter. For purposes of this paragraph (7)a.2., "employees" includes those
11 who meet the requirements of a covered individual under paragraphs (3)a. and (3)b. of this section or are reasonably
12 expected to meet the requirements of a covered individual under paragraphs (3)a. and (3)b. of this section during the
13 previous 12 months.

14 3. For purposes of this chapter, "employer" means the employer client company who enters into an agreement with
15 a professional employer organization as defined by § 3302(8)(J) of this title. The employer client company shall be treated
16 as the employer for purposes of this chapter.

17 b. "Employer" does not include any of the following:

18 1. Anyone who employs less than 10 employees in this State during the previous 12 months.

19 2. The federal government.

20 3. Any business that is closed in its entirety for 30 consecutive days or more per year.

SYNOPSIS

This Act clarifies that for purposes of the Family and Medical Leave Insurance Program, where an employee is leased by an employee leasing company or a professional employment organization, "employer" refers to the employer client of the employee leasing company or professional employment organization, and not to the employee leasing company or professional employment organization.

This Act is a substitute for and differs from Senate Bill No. 248 by omitting language concerning whether individuals covered by certain collective bargaining agreements are "employees" for purposes of the Program.

Author: Senator S. McBride