

**HOUSE . . . . . No. 3798**

By Mr. Koczera of New Bedford, petition of Robert M. Koczera and others for legislation to require certain employers to provide unpaid family and medical leave. Labor and Workforce Development.

**The Commonwealth of Massachusetts**

PETITION OF:

Robert M. Koczera  
Joyce A. Spiliotis

Susan C. Fargo  
Jennifer M. Callahan

In the Year Two Thousand and Seven.

AN ACT PROVIDING UNPAID FAMILY AND MEDICAL LEAVE.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Chapter 149 of the General Laws, as appearing in the 2000 Offi-  
2 cial Edition, is hereby amended by adding the following section:—

3 Section 105E. (a) The following word shall have the following  
4 meaning, unless the context requires or specifically prescribes a dif-  
5 ferent meaning:—

6 “Employer”, any person in the Commonwealth engaged in com-  
7 merce or in any industry or activity affecting commerce who  
8 employs 35 or more employees for each working day during each of  
9 20 or more calendar workweeks in the year 2006 who employs 20 or  
10 more employees for each working day during each of 20 or more  
11 calendar workweeks in the year 2007 and does not include the Com-  
12 monwealth, its subdivisions, or any agencies, commissions or  
13 authorities of the state.

14 (b) Except as otherwise provided by this section, an employer  
15 shall provide leave and be subject to the requirements of Sections  
16 101 to 105, inclusive, of the Family and Medical Leave Act of 1993,  
17 29 U.S.C. Sections 2611 to 2615, inclusive, as it may be amended.

18 (c) Nothing in this section shall be construed to affect any bar-  
19 gaining agreement or company policy which provides employees

20 with greater or additional benefits than those required by this  
21 section.

22 (d) Nothing in this section shall be construed to limit or diminish  
23 and employee's rights under Chapter 152.

24 (e) (1) Subject to paragraph (2), during the period any employee  
25 takes leave under this section, the employer shall offer to maintain  
26 group health benefits under the conditions that applied immediately  
27 before the leave began.

28 (2) During the leave period, the employer may require the  
29 employee to make the contribution normally paid by the employee  
30 for health benefits.

31 (f) No employee shall be penalized by any employer in any way  
32 as a result of any action on the part of the employee to seek his or  
33 her rights under the provisions of this section. It shall be unlawful  
34 for any person to discharge or in any other manner discriminate  
35 against any individual because such individual:—

36 (1) has filed any charge, or has instituted or cause to be instituted  
37 any proceeding, under or related to this section;

38 (2) has given, or is about to give, any information in connection  
39 with any inquiry or proceeding relating to any right provided under  
40 this section; or

41 (3) has testified, or is about to testify in any inquiry or proceeding  
42 relating to any right provided under this section.

43 (g) In the event an employee believes an employer has violated  
44 subsection (f), such employee shall have available at law or equity,  
45 the remedies provided under Sections 148 to 150, inclusive, of  
46 Chapter 149. The attorney general shall enforce this section under  
47 the authority provided in Chapter 149.

48 (h) Each employer shall post, in one or more conspicuous places  
49 where he or she customarily posts notices to employees, a notice in a  
50 form approved by the department setting forth employees' rights  
51 under this section. Any employer who violates this subsection shall  
52 be subject to a fine of not more than one hundred dollars for each  
53 offense. Each day that any employer fails to post the prescribed  
54 notice shall constitute a separate offense.