H. R. ______

To require the Occupational Safety and Health Administration to promulgate an emergency temporary standard to protect employees from occupational exposure to SARS–CoV–2, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. Scott of Virginia introduced the following bill; which was referred to the Committee on ____________________

A BILL

To require the Occupational Safety and Health Administration to promulgate an emergency temporary standard to protect employees from occupational exposure to SARS–CoV–2, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This division may be cited as the “COVID–19 Every Worker Protection Act of 2020”.

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SEC. 2. EMERGENCY TEMPORARY AND PERMANENT STANDARDS.

(a) Emergency Temporary Standard.—

(1) In general.—In consideration of the grave risk presented by COVID–19 and the need to strengthen protections for employees, pursuant to section 6(c)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(c)(1)) and notwithstanding the provisions of law and the Executive order listed in paragraph (7), not later than 7 days after the date of enactment of this Act, the Secretary of Labor shall promulgate an emergency temporary standard to protect from occupational exposure to SARS–CoV–2—

(A) employees of health care sector employers;

(B) employees of employers in the paramedic and emergency medical services, including such services provided by firefighters and other emergency responders; and

(C) other employees at occupational risk of such exposure.

(2) Consultation.—In developing the standard under this subsection, the Secretary of Labor shall consult with the Director of the Centers for Disease Control and Prevention, the Director of the
National Institute for Occupational Safety and Health, and professional associations and representatives of the employees in the occupations and sectors described in subparagraphs (A) through (C) of paragraph (1) and the employers of such employees.

(3) ENFORCEMENT DISCRETION.—If the Secretary of Labor determines it is not feasible for an employer to comply with a requirement of the standard promulgated under this subsection (such as a shortage of the necessary personal protective equipment), the Secretary may exercise discretion in the enforcement of such requirement if the employer demonstrates that the employer—

(A) is exercising due diligence to come into compliance with such requirement; and

(B) is implementing alternative methods and measures to protect employees.

(4) EXTENSION OF STANDARD.—Notwithstanding paragraphs (2) and (3) of section 6(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(c)), the emergency temporary standard promulgated under this subsection shall be in effect until the date on which the final standard promulgated under subsection (b) is in effect.
(5) STATE PLAN ADOPTION.—With respect to a State with a State plan that has been approved by the Secretary of Labor under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667), not later than 14 days after the date of enactment of this Act, such State shall promulgate an emergency temporary standard that is at least as effective in protecting from occupational exposure to SARS–CoV–2 the employees in the occupations and sectors described in subparagraphs (A) through (C) of paragraph (1) as the emergency temporary standard promulgated under this subsection.

(6) EMPLOYER DEFINED.—For purposes of the standard promulgated under this subsection, the term “employer” (as defined in section 3 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 652)) includes any State or political subdivision of a State, except for a State or political subdivision of a State already subject to the jurisdiction of a State plan approved under section 18(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(b)).

(7) INAPPLICABLE PROVISIONS OF LAW AND EXECUTIVE ORDER.—The requirements of chapter 6 of title 5, United States Code (commonly referred to
as the “Regulatory Flexibility Act”), subchapter I of chapter 35 of title 44, United States Code (commonly referred to as the “Paperwork Reduction Act”), the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 et seq.), and Executive Order 12866 (58 Fed. Reg. 190; relating to regulatory planning and review), as amended, shall not apply to the standard promulgated under this subsection.

(b) Permanent Standard.—Not later than 24 months after the date of enactment of this Act, the Secretary of Labor shall promulgate a final standard—

(1) to protect employees in the occupations and sectors described in subparagraphs (A) through (C) of subsection (a)(1) from occupational exposure to infectious pathogens, including novel pathogens; and

(2) that shall be effective and enforceable in the same manner and to the same extent as a standard promulgated under section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)).

(c) Requirements.—Each standard promulgated under this section shall include—

(1) a requirement that the employers of the employees in the occupations and sectors described in subparagraphs (A) through (C) of subsection (a)(1) develop and implement a comprehensive infectious
disease exposure control plan, with the input and involvement of employees or, where applicable, the representatives of employees, as appropriate, to address the risk of occupational exposure in such sectors and occupations;

(2) no less protection for novel pathogens than precautions mandated by standards adopted by a State plan that has been approved by the Secretary of Labor under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667);

(3) the incorporation, as appropriate, of—

(A) guidelines issued by the Centers for Disease Control and Prevention, the National Institute for Occupational Safety and Health, and the Occupational Safety and Health Administration which are designed to prevent the transmission of infectious agents in healthcare or other occupational settings; and

(B) relevant scientific research on novel pathogens; and

(4) a requirement for the recording and reporting of all work-related COVID–19 infections and deaths as set forth in part 1904 of title 29, Code of Federal Regulations (as in effect on the date of enactment of this Act).
(d) ANTI-RETALIATION.—

(1) POLICY.—Each standard promulgated under this section shall require employers to adopt a policy prohibiting the discrimination and retaliation described in paragraph (2) by any person (including an agent of the employer).

(2) PROHIBITION.—No employer (including an agent of the employer) shall discriminate or retaliate against an employee for—

(A) reporting to the employer, to a local, State, or Federal government agency, or to the media or on a social media platform—

(i) a violation of a standard promulgated pursuant to this Act;

(ii) a violation of an infectious disease exposure control plan described in subsection (c)(1); or

(iii) a good faith concern about a workplace infectious disease hazard;

(B) seeking assistance or intervention from the employer or a local, State, or Federal government agency with respect to such a report;

(C) voluntary use of personal protective equipment with a higher level of protection than is provided by the employer; or
exercise any other right under the Occupational Safety and Health Act of 1970

(3) ENFORCEMENT.—This subsection shall be enforced in the same manner and to the same extent as any standard promulgated under section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)).


The Director of the Centers for Disease Control and Prevention, in conjunction with the Director of the National Institute for Occupational Safety and Health, shall—

(1) collect and analyze case reports, including information on the work status, occupation, and industry classification of an individual, and other data on COVID–19, to identify and evaluate the extent, nature, and source of COVID–19 among employees in the occupations and sectors described in subparagraphs (A) through (C) of section 2(a)(1);

(2) investigate, as appropriate, individual cases of COVID–19 among such employees to evaluate the source of exposure and adequacy of infection and exposure control programs and measures;
(3) provide regular periodic reports on COVID–19 among such employees to the public; and

(4) based on such reports and investigations, make recommendations on needed actions or guidance to protect at-risk employees from COVID–19.