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(Original Signature of Member)

118TH CONGRESS
2D SESSION

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

Mr. MAGAZINER introduced the following bill; which was referred 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 “Protected Time Off
5 Act” or the “PTO Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

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

1 activity, business, or industry in commerce or in
2 which a labor dispute would hinder or obstruct com-
3 merce or the free flow of commerce, and include
4 “commerce” and any “industry affecting com-
5 merce”, as defined in paragraphs (1) and (3) of sec-
6 tion 501 of the Labor Management Relations Act,
7 1947 (29 U.S.C. 142(1) and (3)).

8 (2) EMPLOYEE.—The term “employee” means
9 an individual who is—

10 (A)(i) an employee (as defined in section
11 3(e) of the Fair Labor Standards Act of 1938
12 (29 U.S.C. 203(e)) who is not covered under
13 any other provision of this paragraph, including
14 an employee of the Library of Congress, except
15 that a reference in such section to an employer
16 shall be considered a reference to an employer
17 described in paragraph (3)(A)(i)(I);

18 (ii) an employee of the Government
19 Accountability Office; or

20 (iii) an employee of a covered em-
21 ployer described in paragraph
22 (3)(B)(i)(IV);

23 (B) a State employee described in section
24 304(a) of the Government Employee Rights Act

1 of 1991 (42 U.S.C. 2000e–16c(a)), other than
2 an applicant for employment;

3 (C) a tipped employee, as defined in sec-
4 tion 3(t) of the Fair Labor Standards Act of
5 1938 (29 U.S.C. 203(t)), who is not covered
6 under any other provision of this paragraph;

7 (D) a covered employee, as defined in sec-
8 tion 411(c) of title 3, United States Code;

9 (E) a covered employee, as defined in sec-
10 tion 101 of the Congressional Accountability
11 Act of 1995 (2 U.S.C. 1301), other than an ap-
12 plicant for employment; or

13 (F) a Federal officer or employee covered
14 under subchapter V of chapter 63 of title 5,
15 United States Code (without regard to the limi-
16 tation in section 6381(1)(B) of that title).

17 (3) EMPLOYER.—

18 (A) IN GENERAL.—The term “employer”
19 means a person who is—

20 (i)(I) a covered employer who is not
21 described in any other subclause of this
22 clause;

23 (II) an entity employing a State em-
24 ployee described in section 304(a) of the
25 Government Employee Rights Act of 1991;

1 (III) an employing office, as defined
2 in section 101 of the Congressional Ac-
3 countability Act of 1995;

4 (IV) an employing office, as defined in
5 section 411(c) of title 3, United States
6 Code; or

7 (V) an employing agency covered
8 under subchapter V of chapter 63 of title
9 5, United States Code; and

10 (ii) engaged in commerce (including gov-
11 ernment), or an industry or activity affecting
12 commerce (including government).

13 (B) COVERED EMPLOYER.—

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

16 (I) means any person engaged in
17 commerce or in any industry or activ-
18 ity affecting commerce who employs 1
19 or more employees for each working
20 day during each of 20 or more cal-
21 endar workweeks in the current or
22 preceding year;

23 (II) means the Government Ac-
24 countability Office and the Library of
25 Congress;

1 (III) includes—

2 (aa) any person who acts,
3 directly or indirectly, in the inter-
4 est of an employer covered by
5 this clause to any of the employ-
6 ees of such employer; and

7 (bb) any successor in inter-
8 est of such an employer; and

9 (IV) includes any carrier (as such
10 term is defined in section 1 of the
11 Railway Labor Act (45 U.S.C. 151))
12 and any carrier by air (as described in
13 section 201 of such Act (45 U.S.C.
14 181)).

15 (ii) PUBLIC AGENCY.—For purposes
16 of clause (i), a public agency, as defined in
17 section 3(x) of the Fair Labor Standards
18 Act of 1938 (29 U.S.C. 203(x)), shall be
19 considered to be a person engaged in com-
20 merce or in an industry or activity affect-
21 ing commerce.

22 (iii) DEFINITIONS.—For the purposes
23 of this subparagraph:

24 (I) EMPLOYEE.—The term “em-
25 ployee” has the meaning given such

1 term in section 3(e) of the Fair Labor
2 Standards Act of 1938 (29 U.S.C.
3 203(e)).

4 (II) PERSON.—The term “per-
5 son” has the meaning given such term
6 in section 3(a) of the Fair Labor
7 Standards Act of 1938 (20 U.S.C.
8 203(a)).

9 (C) PREDECESSORS.—Any reference in
10 this paragraph to an employer shall include a
11 reference to any predecessor of such employer.

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

14 (A) subject to subparagraph (B), means
15 paid vacation leave, paid personal leave, paid
16 annual leave (provided under this Act or other-
17 wise), or any other form of paid leave provided
18 to an employee by the employer of such em-
19 ployee to be used on days in which the employee
20 would otherwise work and receive pay, and such
21 days are exclusive of nonworkdays established
22 by State or Federal law; and

23 (B) does not include—

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

4 (ii) any form of sick leave.

5 (5) RAIL CARRIER.—The term “rail carrier”
6 has the meaning given such term in section 10102
7 of title 49, United States Code.

8 (6) SECRETARY.—Unless otherwise specified,
9 the term “Secretary” means the Secretary of Labor.

10 (7) SICK LEAVE.—The term “sick leave” means
11 leave provided to an employee by the employer of
12 such employee for reasons such as personal medical
13 needs, family care or bereavement, care of a family
14 member with a serious health condition, or adoption-
15 related purposes, including leave required to be pro-
16 vided for such reasons under State or Federal law.

17 (8) STATE.—The term “State” has the mean-
18 ing given the term in section 3 of the Fair Labor
19 Standards Act of 1938 (29 U.S.C. 203).

20 **SEC. 3. EARNED ANNUAL LEAVE.**

21 (a) EARNING OF PAID ANNUAL LEAVE.—

22 (1) EARNING OF ANNUAL LEAVE.—An employer
23 shall provide each employee employed by the em-
24 ployer not less than 1 hour of paid annual leave for
25 every 25 hours worked.

1 (2) LIMIT.—For purposes of complying with
2 paragraph (1), an employer shall not be required to
3 provide more than 80 hours of paid annual leave to
4 an employee during any 12-month period.

5 (3) COMMENCEMENT OF EARNING PAID AN-
6 NUAL LEAVE.—An employee shall begin to earn paid
7 annual leave at the commencement of employment of
8 such employee.

9 (4) OVERTIME EXEMPT EMPLOYEE.—For pur-
10 poses of this section, an employee who is exempt
11 from overtime requirements under section 13(a)(1)
12 of the Fair Labor Standards Act of 1938 (29 U.S.C.
13 213(a)(1)) shall be deemed to work 40 hours in each
14 workweek.

15 (b) USE OF PAID ANNUAL LEAVE.—

16 (1) IN GENERAL.—Paid annual leave may be
17 used by an employee for any reason.

18 (2) TIMING.—Subject to paragraphs (2) and
19 (3) of subsection (c), an employee may use paid an-
20 nual leave earned by the employee—

21 (A) beginning on the 60th calendar day
22 after the first date of employment of the em-
23 ployee; or

1 (B) at any time before such calendar day
2 at the discretion of the employer of such em-
3 ployee.

4 (3) RATE OF COMPENSATION.—

5 (A) IN GENERAL.—An employee using paid
6 annual leave shall be compensated, for the pe-
7 riod that the employee is using such leave, at
8 the same rate at which the employee would
9 have been paid for such period if the employee
10 were not using paid annual leave.

11 (B) TIPPED EMPLOYEE.—For the pur-
12 poses of subparagraph (A), with respect to a
13 tipped employee, such an employee shall be
14 compensated, for the period that such employee
15 is using paid annual leave, at a rate equivalent
16 to the Federal minimum wage, the applicable
17 State minimum wage, or the applicable munic-
18 ipal minimum wage, whichever is higher.

19 (4) LOANING OF ANNUAL LEAVE.—

20 (A) LOANED LEAVE.—An employer may
21 loan paid annual leave to an employee for use
22 by such employee in advance of the employee
23 earning such annual leave, including before the
24 60th calendar day after the first date of em-
25 ployment of the employee.

1 (B) REIMBURSEMENT FOR LOANED
2 LEAVE.—An employer may require an employee
3 of such employer to reimburse the employer for
4 any annual leave loaned under subparagraph
5 (A) that such employee has not earned at the
6 time of separation. Such reimbursement will be
7 at the rate described in paragraph (3).

8 (c) PROCEDURES FOR USE OF PAID ANNUAL
9 LEAVE.—

10 (1) IN GENERAL.—Subject to paragraphs (2)
11 and (3), an employee may use paid annual leave
12 upon the verbal or written request of the employee.

13 (2) EMPLOYEE NOTIFICATION.—

14 (A) IN GENERAL.—An employer may re-
15 quire an employee to provide notice to the em-
16 ployer to use paid annual leave.

17 (B) TIMING OF NOTICE.—An employer
18 may not require an employee to provide notice
19 in excess of 2 weeks in advance of the use of
20 such leave.

21 (C) EMERGENCY.—In the case of an emer-
22 gency or situation where an employee can not
23 provide timely notice to an employer for the use
24 of paid annual leave, the employer may except

1 any notice requirement and allow the use of
2 such leave.

3 (3) REASONABLE RESTRICTIONS.—An employer
4 may place limited, reasonable restrictions regarding
5 the scheduling of paid annual leave and may reject
6 a scheduling request for such leave for a bona fide
7 business reason, so long as the employer provides
8 other reasonable alternative times for the employee
9 to schedule such leave.

10 (4) PURPOSE OF USE OF PAID ANNUAL
11 LEAVE.—An employer may not require an employee
12 to disclose the purpose or reason for which the em-
13 ployee is using paid annual leave.

14 (5) CARRYOVER.—An employer shall permit an
15 employee of such employer to use up to 40 hours of
16 unused paid annual leave provided to the employee
17 during a 12-month period during the following 12-
18 month period.

19 (6) PROHIBITION ON FINDING COVER.—An em-
20 ployer may not require, as a condition of providing
21 paid annual leave, that an employee search for or
22 find a replacement employee to cover the hours dur-
23 ing which the employee is using such annual leave.

24 (d) PROCEDURES REGARDING LEAVE FOR EM-
25 PLOYEE SEPARATION.—

1 (1) REIMBURSEMENT.—Upon an employee sep-
2 arating from an employer, the employer shall provide
3 financial reimbursement, at the rate described in
4 subsection (b)(3), to such employee for all unused
5 paid annual leave of the employee.

6 (2) REINSTATEMENT.—If an employee is sepa-
7 rated from employment with an employer and is re-
8 hired, within 12 months after that separation, by the
9 same employer—

10 (A) the employer shall reinstate the em-
11 ployee's previously earned paid annual leave;
12 and

13 (B) the employee shall be entitled to use
14 such leave and earn additional paid annual
15 leave at the recommencement of employment
16 with the employer.

17 **SEC. 4. NOTICE REQUIREMENTS.**

18 (a) NOTICE REQUIREMENT.—An employer shall no-
19 tify each employee about the paid annual leave policy of
20 such employer, which shall include the information de-
21 scribed in subsection (b), by—

22 (1) providing such information, in writing, to
23 each employee on or before the first day of employ-
24 ment of such employee;

1 (2) including such information in the employee
2 handbook; and

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

7 (b) CONTENTS.—The information provided pursuant
8 to subsection (a) shall include—

9 (1) any paid annual leave policy of such em-
10 ployer, including any paid annual leave policy that
11 provides paid annual leave in excess of the require-
12 ments of this Act;

13 (2) information pertaining to the filing of an
14 action under section 6;

15 (3) details of any notice requirement the em-
16 ployer may require, as described in section 3(c)(2);

17 (4) information regarding—

18 (A) the protections that an employee has
19 in exercising rights under this Act; and

20 (B) how the employee can contact the Sec-
21 retary (or other appropriate authority as de-
22 scribed in section 6) if any such rights are vio-
23 lated.

1 **SEC. 5. PROHIBITED ACTS.**

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

6 (1) discharging or discriminating against (in-
7 cluding retaliating against) any individual for exer-
8 cising, including a job applicant, or attempting to
9 exercise, any right provided under this Act;

10 (2) using the taking of paid annual leave as a
11 negative factor in an employment action, such as
12 hiring, promotion, reducing hours or numbers of
13 shifts, or a disciplinary action; or

14 (3) counting paid annual leave under a no-fault
15 attendance policy or any other absence-control pol-
16 icy.

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

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

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

4 (3) has testified, or intends to testify, in any in-
5 quiry or proceeding relating to any right provided
6 under this Act.

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

8 (a) IN GENERAL.—

9 (1) DEFINITION.—In this subsection—

10 (A) the term “employee” means an em-
11 ployee described in subparagraph (A), (B), or
12 (C) of section 2(2); and

13 (B) the term “employer” means an em-
14 ployer described in subclauses (I) or (II) of sec-
15 tion 2(3)(A)(i).

16 (2) INVESTIGATIVE AUTHORITY.—

17 (A) IN GENERAL.—To ensure compliance
18 with this Act, or any regulation or order issued
19 under this Act, the Secretary shall have, subject
20 to subparagraph (C), the investigative authority
21 provided under section 11(a) of the Fair Labor
22 Standards Act of 1938 (29 U.S.C. 211(a)),
23 with respect to employers, employees, and other
24 individuals affected by an employer.

1 (B) OBLIGATION TO KEEP AND PRESERVE
2 RECORDS.—An employer shall make, keep, and
3 preserve records pertaining to compliance with
4 this Act in accordance with section 11(c) of the
5 Fair Labor Standards Act of 1938 (29 U.S.C.
6 211(c)) and in accordance with regulations pre-
7 scribed by the Secretary.

8 (C) REQUIRED SUBMISSIONS GENERALLY
9 LIMITED TO AN ANNUAL BASIS.—The Secretary
10 may not require an employer to submit to the
11 Secretary any books or records more than once
12 during any 12-month period, unless the Sec-
13 retary has reasonable cause to believe there
14 may exist a violation of this act or any regula-
15 tion or order issued pursuant to this Act, or is
16 investigating a charge pursuant to paragraph
17 (4).

18 (D) SUBPOENA AUTHORITY.—For the pur-
19 poses of any investigation provided for in this
20 paragraph, the Secretary shall have the sub-
21 poena authority provided for under section 9 of
22 the Fair Labor Standards Act of 1938 (29
23 U.S.C. 209).

24 (3) PRIVATE RIGHT OF ACTION.—

1 (A) IN GENERAL.—An action to recover
2 damages or equitable relief prescribed in sub-
3 paragraph (B) may be maintained against any
4 employer in any Federal or State court of com-
5 petent jurisdiction by an employee or individual
6 or a representative for and on behalf of—

7 (i) the employee or individual; or

8 (ii) the employee or individual and
9 others similarly situated.

10 (B) LIABILITY.—Any employer who vio-
11 lates section 5 (including a violation relating to
12 rights provided under section 3) shall be liable
13 to any employee or individual affected—

14 (i) for damages equal to—

15 (I) the amount of—

16 (aa) any wages, salary, em-
17 ployment benefits, or other com-
18 pensation denied or lost by rea-
19 son of the violation; or

20 (bb) in a case in which
21 wages, salary, employment bene-
22 fits, or other compensation have
23 not been denied or lost, any ac-
24 tual monetary losses sustained as
25 a direct result of the violation up

1 to a sum equal to 80 hours of
2 wages or salary for the employee
3 or individual;

4 (II) the interest on the amount
5 described in subclause (I) calculated
6 at the prevailing rate; and

7 (III) an additional amount as liq-
8 uidated damages; and

9 (ii) for such equitable relief as may be
10 appropriate, including employment, rein-
11 statement, and promotion.

12 (C) FEES AND COSTS.—The court in an
13 action under this subsection shall, in addition to
14 any judgment awarded to the plaintiff, allow a
15 reasonable attorney's fee, reasonable expert wit-
16 ness fees, and other costs to be paid by the de-
17 fendant.

18 (D) LIMITATIONS.—

19 (i) IN GENERAL.—Except as provided
20 in subparagraph (B), an action may be
21 brought under paragraph (2) or (3) not
22 more than 2 years after the date of the
23 last event constituting the alleged violation
24 for which the action is brought.

1 (ii) WILLFUL VIOLATION.—In the
2 case of an action brought for a willful vio-
3 lation of section 5 (including a willful vio-
4 lation relating to rights provided under
5 section 3), such action may be brought not
6 more than 3 years after the last event con-
7 stituting the alleged violation for which
8 such action is brought.

9 (iii) COMMENCEMENT.—In deter-
10 mining when an action is commenced
11 under paragraph (2) or (3) for the pur-
12 poses of this subsection, the action shall be
13 considered to be commenced on the date
14 when the complaint is filed.

15 (4) ACTIONS BY THE SECRETARY.—

16 (A) ADMINISTRATIVE ACTIONS.—The Sec-
17 retary shall receive, investigate, and attempt to
18 resolve complaints of violations of section 5 in
19 the same manner that the Secretary receives,
20 investigates, and attempts to resolve complaints
21 of violations of sections 6 and 7 of the Fair
22 Labor Standards Act of 1938 (29 U.S.C. 206
23 and 207).

24 (B) CIVIL ACTION.—The Secretary may
25 bring an action in any court of competent juris-

1 diction to recover the damages described in sub-
2 section (a)(3)(B).

3 (C) SUMS RECOVERED.—Any sums recov-
4 ered by the Secretary pursuant to subparagraph
5 (B) shall be held in a special deposit account
6 and shall be paid, on order of the Secretary, di-
7 rectly to each employee or individual affected.
8 Any sums not paid to an employee or individual
9 affected because of the inability to do so within
10 a period of 3 years shall be deposited into the
11 Treasury of the United States as miscellaneous
12 receipts.

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

17 (i) to restrain violations of section 5
18 (including a violation relating to rights
19 provided under section 3), including the re-
20 straint of any withholding of wages, salary,
21 employment benefits, or other compensa-
22 tion, plus interest, found by the court to be
23 due to employees or individuals eligible
24 under this Act; or

1 (ii) to award such other equitable re-
2 lief as may be appropriate, including em-
3 ployment, reinstatements, and promotion.

4 (E) SOLICITOR OF LABOR.—The Solicitor
5 of Labor may appear for an represent the Sec-
6 retary on any litigation brought under this sub-
7 section.

8 (b) GOVERNMENT ACCOUNTABILITY OFFICE AND LI-
9 BRARY OF CONGRESS.—Notwithstanding any other provi-
10 sion of this section, in the case of the Government Ac-
11 countability Office and the Library of Congress, the au-
12 thority of the Secretary under this subsection shall be ex-
13 ercised respectively by the Comptroller General of the
14 United States and the Librarian of Congress.

15 (c) EMPLOYEES COVERED BY CONGRESSIONAL AC-
16 COUNTABILITY ACT OF 1995.—The powers, remedies, and
17 procedures provided in the Congressional Accountability
18 Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as de-
19 fined in section 101 of that Act (2 U.S.C. 1301)), or any
20 person, alleging a violation of section 202(a)(1) of that
21 Act (2 U.S.C. 1312(a)(1)) shall be the powers, remedies,
22 and procedures this Act provides to that Board, or any
23 person, alleging an unlawful employment practice in viola-
24 tion of this Act against an employee described in section
25 2(2)(D).

1 (d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE
2 5, UNITED STATES CODE.—The powers, remedies, and
3 procedures provided in title 5, United States Code, to an
4 employing agency, provided in chapter 12 of that title to
5 the Merit Systems Protection Board, or provided in that
6 title to any person, alleging a violation of chapter 63 of
7 that title, shall be the powers, remedies, and procedures
8 this Act provides to that agency, that Board, or any per-
9 son, respectively, alleging an unlawful employment prac-
10 tice in violation of this Act against an employee described
11 in section 2(2)(E).

12 (e) REMEDIES FOR STATE EMPLOYEES.—

13 (1) WAIVER OF SOVEREIGN IMMUNITY.—A
14 State’s receipt or use of Federal financial assistance
15 for any program or activity of a State shall con-
16 stitute a waiver of sovereign immunity, under the
17 11th Amendment of the Constitution or otherwise,
18 to a suit brought by an employee of that program
19 or activity under this Act for equitable, legal, or
20 other relief authorized under this Act.

21 (2) OFFICIAL CAPACITY.—An official of a State
22 may be sued in the official capacity of the official by
23 any employee who has complied with the procedures
24 of subsection (a)(3), for injunctive relief that is au-
25 thorized under this Act. In such a suit, the court

1 may to the prevailing party those costs authorized
2 by section 722 of the Revised Statutes (42 U.S.C.
3 1988).

4 (3) APPLICABILITY.—With respect to a par-
5 ticular program or activity, paragraph (1) applies to
6 conduct occurring on or after the day, after the date
7 of enactment of this Act, on which a State first re-
8 ceives or uses Federal financial assistance for that
9 program or activity.

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

14 **SEC. 7. EFFECT ON EXISTING EMPLOYMENT BENEFITS.**

15 (a) MORE PROTECTIVE.—Nothing in this Act shall
16 be construed to diminish the obligation of an employer to
17 comply with any contract, collective bargaining agreement,
18 or any employment benefit program or plan that provides
19 greater paid annual leave or other leave rights to employ-
20 ees or individuals than the rights established under this
21 Act.

22 (b) LESS PROTECTIVE.—The rights established for
23 employees under this Act shall not be diminished by any
24 contract, collective bargaining agreement, or any employ-
25 ment program or plan.

1 **SEC. 8. AWARENESS CAMPAIGN.**

2 (a) IN GENERAL.—Not later than 1 year after the
3 date of enactment of this Act, the Secretary shall carry
4 out a public awareness campaign to inform the public
5 about the earned annual leave entitlement established
6 under this Act, which shall include information about—

7 (1) the rights provided to an employee under
8 this Act; and

9 (2) resources available to an employee if the
10 employee believes the rights provided under this act
11 have been violated.

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

15 **SEC. 9. EFFECTIVE DATES.**

16 (a) EFFECTIVE DATE.—This Act, and the amend-
17 ment made by this Act, shall take effect 180 days after
18 the date of enactment of this Act.

19 (b) COLLECTIVE BARGAINING AGREEMENTS.—In the
20 case of a collective bargaining agreement in effect on the
21 effective date prescribed under subsection (a), the Act
22 shall take effect on the earlier of—

23 (1) the date of the termination of such agree-
24 ment;

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

- 1 (3) the date that occurs 18 months after such
- 2 effective date.