

116TH CONGRESS  
2D SESSION

# S. 3966

To provide a tax credit to businesses that provide testing for COVID–19  
to their employees.

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IN THE SENATE OF THE UNITED STATES

JUNE 16, 2020

Mr. CRUZ introduced the following bill; which was read twice and referred to  
the Committee on Finance

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## A BILL

To provide a tax credit to businesses that provide testing  
for COVID–19 to their employees.

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 “Work Safe Act”.

5       **SEC. 2. ESTABLISHMENT OF TAX CREDIT FOR EMPLOYEE**  
6               **TESTING FOR COVID–19.**

7       (a) IN GENERAL.—For purposes of section 38 of the  
8       Internal Revenue Code of 1986, the COVID–19 employee  
9       testing credit shall be treated as a credit listed at the end  
10      of subsection (b) of such section. For purposes of this sub-

1 section, the COVID–19 employee testing credit is an  
2 amount equal to the product of—

3 (1) the number of qualified COVID–19 tests  
4 administered to any employee of the taxpayer after  
5 the date of enactment of this Act and before Janu-  
6 ary 1, 2021; and

7 (2) the applicable amount.

8 (b) LIMITATION.—For purposes of paragraph (1) of  
9 subsection (a), the credit allowed under such subsection  
10 shall not include any tests which are in excess of one quali-  
11 fied COVID–19 test for each employee for every 2 cal-  
12 endar weeks during calendar year 2020.

13 (c) APPLICABLE AMOUNT.—For purposes of para-  
14 graph (2) of subsection (a), the applicable amount shall  
15 be—

16 (1) for any qualified COVID–19 test adminis-  
17 tered to an employee during the month which in-  
18 cludes the date of enactment of this Act, \$300;

19 (2) for any such test administered to an em-  
20 ployee during the month subsequent to the month  
21 described in paragraph (1), \$250;

22 (3) for any such test administered to an em-  
23 ployee during the month subsequent to the month  
24 described in paragraph (2), \$200; and

(4) for any such test administered to an employee during any month subsequent to the month described in paragraph (3), \$150.

(d) QUALIFIED COVID-19 TEST.—

(1) IN GENERAL.—For purposes of this section, the term “qualified COVID-19 test” means—

(A) any diagnostic test for the detection of the virus SARS-CoV-2 or coronavirus disease 2019 (COVID-19); or

(B) any serology test for the detection of antibodies to such virus, which has been cleared or approved by the Food and Drug Administration for such purpose and which satisfies the requirements under paragraph (2).

(2) ADDITIONAL REQUIREMENTS.—The requirements described in this paragraph are that any test described in paragraph (1)—

(A) is not provided to an employee after the date on which such employee has tested positive for the virus described in subparagraph (A) of such paragraph or the antibodies described in subparagraph (B) of such paragraph; and

(B) is provided to an employee who works within a State for which the Centers for Dis-

1 ease Control and Prevention has determined  
2 (pursuant to paragraph (3)) that the weekly  
3 positive case rate in such State is higher than  
4 the weekly positive case rate for the United  
5 States for the calendar week preceding the week  
6 which includes the date on which such test was  
7 administered to the employee.

8 (3) INFORMATION PROVIDED BY CDC.—

9 (A) IN GENERAL.—The Director of the  
10 Centers for Disease Control and Prevention  
11 shall disclose to the public, in such manner as  
12 is determined appropriate by the Director for  
13 carrying out the purposes of this section, the  
14 weekly positive case rate for each State and for  
15 the United States for the most recently com-  
16 pleted calendar week, as determined based on  
17 the most recent data which is available.

18 (B) WEEKLY POSITIVE CASE RATE.—For  
19 purposes of this subsection, the term “weekly  
20 positive case rate” means an amount equal to  
21 the quotient of—

22 (i) the number of tests described in  
23 paragraph (1)(A) which were administered  
24 during any calendar week to individuals

1                   who tested positive for the virus described  
2                   in such paragraph; and

3                   (ii) the total number of tests described  
4                   in such paragraph which were adminis-  
5                   tered during such week.

6           (e) ALLOWANCE OF DEDUCTION.—Nothing in this  
7 section or the Internal Revenue Code of 1986 shall pro-  
8 hibit any deduction which is otherwise allowable with re-  
9 spect to any expense incurred by the taxpayer for the ac-  
10 quisition or purchase of any COVID–19 test which is  
11 taken into account under subsection (a).

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