

SENATE BILL 994

K3

4lr1786
CF 4lr1785

By: **Senator Benson**

Introduced and read first time: February 2, 2024

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Predictable Scheduling Act**

3 FOR the purpose of establishing certain requirements on food service establishments,
4 hospitality establishments, and retail establishments regarding work schedules for
5 employees, including requirements related to the provision of work schedules to
6 employees, notifications regarding changes to the schedules, and payment of wages
7 to employees whose work schedules are changed by the employer; authorizing certain
8 employees to request an adjustment in a work schedule before beginning a shift and
9 to decline to work hours that occur during a certain period; and generally relating to
10 work schedules.

11 BY repealing and reenacting, with amendments,
12 Article – Labor and Employment
13 Section 2–106(b) and 3–102(a)
14 Annotated Code of Maryland
15 (2016 Replacement Volume and 2023 Supplement)

16 BY adding to
17 Article – Labor and Employment
18 Section 3–103(n); and 3–1801 through 3–1812 to be under the new subtitle “Subtitle
19 18. Predictable Scheduling”
20 Annotated Code of Maryland
21 (2016 Replacement Volume and 2023 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
23 That the Laws of Maryland read as follows:

24 **Article – Labor and Employment**

25 2–106.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(b) Except as provided in subsection (c) of this section, and in addition to authority to adopt regulations that is set forth elsewhere, the Commissioner may adopt regulations that are necessary to carry out:

(1) Title 3, Subtitle 3 of this article;

(2) Title 3, Subtitle 5 of this article;

(3) Title 3, Subtitle 13 of this article;

(4) TITLE 3, SUBTITLE 18 OF THIS ARTICLE;

[(4)] (5) Title 4, Subtitle 2, Parts I through III of this article;

[(5)] (6) Title 5 of this article;

[(6)] (7) Title 6 of this article; and

[(7)] (8) Title 7 of this article.

3–102.

(a) In addition to any duties set forth elsewhere, the Commissioner shall:

(1) enforce Subtitle 2 of this title;

(2) carry out Subtitle 3 of this title;

(3) enforce Subtitle 4 of this title;

(4) enforce Subtitle 9 of this title;

(5) enforce Subtitle 16 of this title; [and]

(6) ENFORCE SUBTITLE 18 OF THIS TITLE; AND

[(6)] (7) enforce a local minimum wage law.

3–103.

(N) THE COMMISSIONER MAY CONDUCT AN INVESTIGATION TO DETERMINE WHETHER A PROVISION OF SUBTITLE 18 OF THIS TITLE HAS BEEN VIOLATED, ON THE COMMISSIONER’S OWN INITIATIVE OR ON RECEIPT OF A WRITTEN COMPLAINT OF AN EMPLOYEE.

SUBTITLE 18. PREDICTABLE SCHEDULING.

1 **3-1801.**

2 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
3 **INDICATED.**

4 **(B) (1) “EMPLOYEE” MEANS AN INDIVIDUAL WHO IS:**

5 **(I) PAID AN HOURLY WAGE;**

6 **(II) NOT EXEMPT FROM THE MINIMUM WAGE AND OVERTIME**
7 **REQUIREMENTS OF THE FEDERAL FAIR LABOR STANDARDS ACT; AND**

8 **(III) EMPLOYED BY AN EMPLOYER.**

9 **(2) “EMPLOYEE” DOES NOT INCLUDE AN INDEPENDENT**
10 **CONTRACTOR.**

11 **(C) (1) “EMPLOYER” MEANS A PERSON THAT EMPLOYS INDIVIDUALS IN A**
12 **FOOD SERVICE ESTABLISHMENT, HOSPITALITY ESTABLISHMENT, OR RETAIL**
13 **ESTABLISHMENT.**

14 **(2) “EMPLOYER” INCLUDES A FRANCHISEE.**

15 **(D) “FOOD SERVICE ESTABLISHMENT” MEANS AN ENTITY IN THE INDUSTRY**
16 **OF FOOD SERVICES AND DRINKING PLACES, AS DEFINED UNDER THE NORTH**
17 **AMERICAN INDUSTRY CLASSIFICATION SYSTEM, NAICS 722, OR A SIMILAR**
18 **DESIGNATION ADOPTED BY THE COMMISSIONER, THAT:**

19 **(1) EMPLOYS NOT LESS THAN 500 EMPLOYEES IN THE UNITED**
20 **STATES OR WORLDWIDE; AND**

21 **(2) (I) IS PART OF A CHAIN OF AT LEAST 30 RESTAURANTS IN THE**
22 **UNITED STATES OR WORLDWIDE; OR**

23 **(II) IS A FRANCHISEE.**

24 **(E) (1) “FRANCHISEE” MEANS A PERSON TO WHOM A FRANCHISE OF A**
25 **FOOD SERVICE ESTABLISHMENT, HOSPITALITY ESTABLISHMENT, OR RETAIL**
26 **ESTABLISHMENT IS GRANTED.**

27 **(2) “FRANCHISEE” INCLUDES A DISTRIBUTOR, WHOLESALER,**
28 **JOBBER, OR RETAILER THAT IS GRANTED AUTHORITY UNDER A FRANCHISE TO USE**

1 A TRADEMARK, TRADE NAME, SERVICE MARK, OR OTHER IDENTIFYING SYMBOL OR
2 NAME.

3 (F) "HOSPITALITY ESTABLISHMENT" MEANS AN ENTITY THAT IS A HOTEL,
4 MOTEL, OR CASINO HOTEL AS DEFINED UNDER THE NORTH AMERICAN INDUSTRY
5 CLASSIFICATION SYSTEM, NAICS 721110 AND 721120, OR A SIMILAR DESIGNATION
6 ADOPTED BY THE COMMISSIONER, THAT EMPLOYS NOT LESS THAN 500 EMPLOYEES
7 IN THE UNITED STATES OR WORLDWIDE.

8 (G) "ON-CALL SHIFT" MEANS TIME THAT AN EMPLOYER REQUIRES AN
9 EMPLOYEE TO BE AVAILABLE TO WORK AND TO CONTACT THE EMPLOYER OR THE
10 EMPLOYER'S DESIGNEE, OR TO WAIT TO BE CONTACTED BY THE EMPLOYER OR THE
11 EMPLOYER'S DESIGNEE, WITHIN 24 HOURS BEFORE THE START OF A POTENTIAL
12 SHIFT TO DETERMINE WHETHER THE EMPLOYEE MUST REPORT TO WORK.

13 (H) "RETAIL ESTABLISHMENT" MEANS AN ENTITY DEFINED UNDER THE
14 NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM, NAICS 4410 THROUGH
15 4599, OR A SIMILAR DESIGNATION ADOPTED BY THE COMMISSIONER THAT EMPLOYS
16 NOT LESS THAN 500 EMPLOYEES WORLDWIDE.

17 (I) "SCHEDULED WORK HOURS" MEANS THE HOURS AN EMPLOYEE IS
18 SCHEDULED TO WORK UNDER A WORK SCHEDULE.

19 (J) "SHIFT" MEANS THE CONSECUTIVE HOURS, INCLUDING BREAKS OF
20 LESS THAN 1 HOUR, AN EMPLOYER REQUIRES AN EMPLOYEE TO WORK OR TO BE
21 AVAILABLE FOR WORK.

22 (K) "WORK SCHEDULE" MEANS A WRITTEN NOTICE OF AN EMPLOYEE'S
23 REGULAR AND ON-CALL SHIFTS DURING A CONSECUTIVE 7-DAY PERIOD THAT
24 INCLUDES THE SPECIFIC START AND END TIME FOR EACH SHIFT.

25 (L) "WORK SCHEDULE CHANGE" MEANS A MODIFICATION TO THE
26 EMPLOYEE'S WORK SCHEDULE MADE BY THE EMPLOYER, INCLUDING:

27 (1) THE ADDITION OR REDUCTION OF HOURS;

28 (2) THE CANCELLATION OF A PART OF A SHIFT;

29 (3) A CHANGE IN THE TIME, DATE, OR LOCATION OF A SHIFT; OR

30 (4) THE SCHEDULING OF AN EMPLOYEE FOR AN ON-CALL SHIFT FOR
31 WHICH THE EMPLOYEE DOES NOT NEED TO REPORT TO WORK.

1 **3-1802.**

2 **(A) THIS SUBTITLE MAY NOT BE CONSTRUED TO:**

3 **(1) DISCOURAGE OR PROHIBIT AN EMPLOYER FROM ADOPTING OR**
4 **RETAINING A POLICY THAT IS MORE BENEFICIAL TO EMPLOYEES THAN THE**
5 **REQUIREMENTS UNDER THIS SUBTITLE;**

6 **(2) DIMINISH THE OBLIGATION OF AN EMPLOYER TO COMPLY WITH A**
7 **CONTRACT, A COLLECTIVE BARGAINING AGREEMENT, AN EMPLOYMENT BENEFIT**
8 **PLAN, OR ANY OTHER AGREEMENT THAT ESTABLISHES POLICIES THAT ARE MORE**
9 **BENEFICIAL TO AN EMPLOYEE THAN THE REQUIREMENTS OF THIS SUBTITLE; OR**

10 **(3) PREEMPT, LIMIT, OR OTHERWISE AFFECT THE APPLICABILITY OF**
11 **ANY OTHER LAW, POLICY, OR STANDARD ESTABLISHING SCHEDULING POLICIES**
12 **THAT PROVIDE ADDITIONAL RIGHTS OR EXTEND OTHER PROTECTIONS TO**
13 **EMPLOYEES BEYOND THOSE PROVIDED UNDER THIS SUBTITLE.**

14 **(B) FOR PURPOSES OF ENFORCING THIS SUBTITLE, AN EMPLOYER SHALL**
15 **BEAR THE BURDEN OF PROOF THAT AN INDIVIDUAL IS AN INDEPENDENT**
16 **CONTRACTOR AND NOT AN EMPLOYEE OF THE EMPLOYER.**

17 **3-1803.**

18 **(A) (1) AN EMPLOYER SHALL PROVIDE A NEW EMPLOYEE WITH THE**
19 **EMPLOYEE'S FIRST WORK SCHEDULE NOT LATER THAN THE DATE OF THE**
20 **EMPLOYEE'S FIRST SHIFT.**

21 **(2) THE WORK SCHEDULE PROVIDED UNDER PARAGRAPH (1) OF THIS**
22 **SUBSECTION SHALL COVER THE CONSECUTIVE 7-DAY PERIOD BEGINNING WITH THE**
23 **DATE OF THE FIRST SHIFT.**

24 **(B) (1) AT LEAST 14 DAYS BEFORE THE START OF ANY 7-DAY WORK**
25 **SCHEDULE, AN EMPLOYER SHALL CONSPICUOUSLY DISPLAY THE WORK SCHEDULE**
26 **AT EACH EMPLOYEE'S WORK SITE AND DISTRIBUTE THE WORK SCHEDULE TO EACH**
27 **EMPLOYEE.**

28 **(2) A WORK SCHEDULE SHALL LIST ALL CURRENT EMPLOYEES AT A**
29 **RESPECTIVE WORK SITE.**

30 **(3) AN EMPLOYER MAY PROVIDE THE WORK SCHEDULE UNDER**
31 **PARAGRAPH (1) OF THIS SUBSECTION TO AN EMPLOYEE BY ELECTRONIC MEANS**
32 **ONLY IF THE ELECTRONIC MEANS ARE REGULARLY USED TO COMMUNICATE**

1 SCHEDULING INFORMATION TO THE EMPLOYEE.

2 (C) (1) AN EMPLOYER SHALL:

3 (I) NOTIFY AN EMPLOYEE IN WRITING ABOUT A WORK
4 SCHEDULE CHANGE AS SOON AS PRACTICABLE BEFORE THE CHANGE TAKES
5 EFFECT; AND

6 (II) POST A REVISED WORK SCHEDULE THAT REFLECTS THE
7 CHANGE WITHIN 24 HOURS AFTER THE CHANGE IS MADE.

8 (2) AN EMPLOYEE MAY DECLINE TO WORK HOURS NOT INCLUDED IN
9 AN ORIGINAL WORK SCHEDULE OR IN A SUBSEQUENTLY REVISED SCHEDULE.

10 (3) IF AN EMPLOYEE CONSENTS TO WORK HOURS NOT INCLUDED IN
11 AN ORIGINAL SCHEDULE OR IN A SUBSEQUENTLY REVISED SCHEDULE, THE
12 EMPLOYEE SHALL PROVIDE THE CONSENT IN WRITING.

13 (D) (1) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,
14 BEFORE BEGINNING A SHIFT, AN EMPLOYEE MAY SUBMIT TO AN EMPLOYER AN
15 ORAL, WRITTEN, OR ELECTRONIC REQUEST TO ADJUST THE EMPLOYEE'S WORK
16 SCHEDULE.

17 (II) A REQUEST MADE UNDER SUBPARAGRAPH (I) OF THIS
18 PARAGRAPH MAY INCLUDE A REQUEST FOR THE EMPLOYER TO:

19 1. SCHEDULE OR REFRAIN FROM SCHEDULING THE
20 EMPLOYEE FOR WORK SHIFTS DURING SPECIFIC DAYS OR TIMES OR AT SPECIFIC
21 LOCATIONS;

22 2. SCHEDULE THE EMPLOYEE FOR MORE OR FEWER
23 HOURS; OR

24 3. SCHEDULE THE EMPLOYEE CONSISTENTLY FOR A
25 SPECIFIC OR MINIMUM NUMBER OF WEEKLY WORK HOURS.

26 (2) ON RECEIPT OF A REQUEST TO ADJUST AN EMPLOYEE'S WORK
27 SCHEDULE, AN EMPLOYER:

28 (I) SHALL ENGAGE WITH THE EMPLOYEE IN AN INTERACTIVE
29 PROCESS TO DISCUSS THE EMPLOYEE'S REQUEST; AND

30 (II) MAY GRANT OR DENY THE EMPLOYEE'S REQUEST FOR ANY

1 LAWFUL AND BONA FIDE BUSINESS REASON.

2 **3-1804.**

3 (A) EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS SECTION,
4 AN EMPLOYER SHALL PAY AN EMPLOYEE 1 HOUR AT THE EMPLOYEE'S REGULAR
5 RATE OF PAY FOR EACH TIME THAT THE EMPLOYER, AFTER THE WORK SCHEDULE
6 WAS PROVIDED UNDER § 3-1803(B)(1) OF THIS SUBTITLE:

7 (1) ADDS 1 OR MORE HOURS OF WORK TO THE EMPLOYEE'S WORK
8 SCHEDULE; OR

9 (2) WITHOUT A REDUCTION OF HOURS OF WORK, CHANGES THE DATE,
10 TIME, OR LOCATION OF A SHIFT.

11 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN
12 EMPLOYER SHALL PAY THE EMPLOYEE 50% OF THE EMPLOYEE'S REGULAR RATE OF
13 PAY FOR ALL SCHEDULED WORK HOURS THE EMPLOYEE DOES NOT WORK DUE TO
14 THE EMPLOYER CANCELING OR REDUCING THE EMPLOYEE'S WORK HOURS:

15 (1) AFTER THE WORK SCHEDULE WAS PROVIDED UNDER §
16 3-1803(B)(1) OF THIS SUBTITLE; OR

17 (2) AFTER THE EMPLOYEE REPORTS TO WORK FOR THE EMPLOYEE'S
18 SHIFT.

19 (C) AN EMPLOYER IS NOT REQUIRED TO PAY THE WAGES REQUIRED UNDER
20 SUBSECTION (A) OR (B) OF THIS SECTION IF THE CHANGE TO AN EMPLOYEE'S SHIFT
21 OR SCHEDULED WORK HOURS:

22 (1) WAS MADE AT THE WRITTEN REQUEST OF THE EMPLOYEE,
23 INCLUDING A REQUEST TO:

24 (I) WORK SPECIFIC HOURS OTHER THAN THOSE SCHEDULED BY
25 THE EMPLOYER; OR

26 (II) USE SICK LEAVE, VACATION LEAVE, PERSONAL DAYS, OR
27 OTHER LEAVE OFFERED BY THE EMPLOYER;

28 (2) SUBJECT TO SUBSECTION (D) OF THIS SECTION, IS THE RESULT OF
29 A VOLUNTARY, MUTUALLY AGREED-ON SHIFT TRADE AMONG EMPLOYEES; OR

30 (3) IS DUE TO THE EMPLOYER BEING UNABLE TO BEGIN OR CONTINUE

OPERATIONS DUE TO:

(I) THE UTILITIES AT THE WORK LOCATION NOT WORKING;

(II) THE SHUTDOWN OF PUBLIC TRANSPORTATION;

(III) A NATURAL DISASTER, INCLUDING A FIRE OR FLOOD; OR

**(IV) AN EMERGENCY DECLARATION ISSUED BY THE PRESIDENT
OF THE UNITED STATES OR THE GOVERNOR.**

**(D) (1) FOR THE PURPOSES OF SUBSECTION (C) OF THIS SECTION, A
SHIFT TRADE INCLUDES AN INSTANCE IN WHICH THE EMPLOYER TRANSMITS THE
SHIFT TRADE OFFER TO ALL ELIGIBLE EMPLOYEES AT THE PREVIOUSLY
SCHEDULED EMPLOYEE'S REQUEST, IF THE EMPLOYER'S TRANSMITTAL IS:**

**(I) ACCESSIBLE TO ALL ELIGIBLE EMPLOYEES IN THE FORM OF
A MASS COMMUNICATION;**

**(II) TRANSMITTED ELECTRONICALLY OR IN WRITING AT THE
WORK SITE; AND**

(III) NOT COERCIVE IN ANY WAY.

**(2) THERE IS A REBUTTABLE PRESUMPTION THAT THE PAY
REQUIRED UNDER SUBSECTION (A) OR (B) OF THIS SECTION IS OWED IF THE
EMPLOYER FAILS TO DOCUMENT CONSENT TO THE SHIFT TRADE.**

3-1805.

(A) AN EMPLOYEE HAS THE RIGHT TO DECLINE TO WORK A SHIFT THAT:

**(1) BEGINS LESS THAN 11 HOURS AFTER THE END OF A SHIFT
PREVIOUSLY WORKED BY THE EMPLOYEE; OR**

**(2) IS DURING THE 11-HOUR PERIOD IMMEDIATELY FOLLOWING THE
END OF A SHIFT THAT SPANS MORE THAN 1 DAY.**

**(B) IF AN EMPLOYEE AGREES IN WRITING TO WORK HOURS THAT OCCUR
DURING A PERIOD DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION, THE
EMPLOYER SHALL PAY THE EMPLOYEE:**

(1) 1.5 TIMES THE EMPLOYEE'S REGULAR RATE OF PAY FOR THE

1 HOURS WORKED; OR

2 (2) IF THE TOTAL AMOUNT THAT WOULD BE PAID UNDER ITEM (1) OF
3 THIS SUBSECTION IS LESS THAN THE EMPLOYEE WOULD BE PAID FOR 4 HOURS
4 WORKED AT THE EMPLOYEE'S REGULAR RATE OF PAY, AN AMOUNT THAT IS AT LEAST
5 EQUIVALENT TO 4 HOURS PAID AT THE EMPLOYEE'S REGULAR RATE OF PAY.

6 3-1806.

7 (A) AN EMPLOYER SHALL GIVE EMPLOYEES NOTICE OF THEIR RIGHTS
8 UNDER THIS SUBTITLE BY:

9 (1) (I) CONSPICUOUSLY POSTING NOTICES IN ENGLISH AND
10 SPANISH AT A LOCATION AT THE WORK SITE THAT IS READILY ACCESSIBLE TO ALL
11 EMPLOYEES; OR

12 (II) IF THE POSTING OF A NOTICE UNDER ITEM (I) OF THIS ITEM
13 IS NOT PRACTICABLE, PROVIDING THE NOTICE ON AN INDIVIDUAL BASIS IN A
14 PHYSICAL FORM OR IN A REASONABLY ACCESSIBLE ELECTRONIC FORMAT; AND

15 (2) PROVIDING WRITTEN NOTICE TO A NEW EMPLOYEE OF THE
16 EMPLOYEE'S RIGHTS AND THE PROTECTIONS OF THIS SUBTITLE NOT LATER THAN
17 THE DATE OF THE FIRST SHIFT WORKED BY THE EMPLOYEE.

18 (B) THE NOTICES REQUIRED UNDER SUBSECTION (A) OF THIS SECTION
19 SHALL INCLUDE:

20 (1) THE RIGHT TO RECEIVE PAY UNDER §§ 3-1804 AND 3-1805 OF
21 THIS SUBTITLE;

22 (2) A STATEMENT THAT RETALIATION AGAINST EMPLOYEES WHO
23 EXERCISE THEIR RIGHTS UNDER THIS SUBTITLE IS PROHIBITED; AND

24 (3) A STATEMENT THAT EACH EMPLOYEE HAS THE RIGHT TO FILE A
25 COMPLAINT OR BRING A CIVIL ACTION TO ENFORCE THE EMPLOYEE'S RIGHTS
26 UNDER THIS SUBTITLE.

27 (C) THE COMMISSIONER SHALL DEVELOP AND MAKE AVAILABLE ONLINE
28 MODEL WRITTEN NOTICES THAT EMPLOYERS MAY USE TO COMPLY WITH THIS
29 SECTION.

30 3-1807.

(A) EACH EMPLOYER SHALL:

(1) RECORD THE WAGES PAID TO AN EMPLOYEE UNDER §§ 3-1804 AND 3-1805 OF THIS SUBTITLE IN THE STATEMENT OF EARNINGS REQUIRED BY § 3-504(A)(2) OF THIS TITLE; AND

(2) SPECIFY IN THE STATEMENT OF EARNINGS THE TOTAL AMOUNT OF PAY PAID UNDER §§ 3-1804 AND 3-1805 OF THIS SUBTITLE.

(B) IF NECESSARY TO CARRY OUT THIS SUBTITLE, THE COMMISSIONER MAY REQUIRE AN EMPLOYER TO:

(1) INCLUDE ADDITIONAL INFORMATION IN THE STATEMENT OF EARNINGS; AND

(2) USE ADDITIONAL MEANS TO NOTIFY THE EMPLOYER'S EMPLOYEES OF THE INFORMATION REQUIRED TO BE INCLUDED IN THE STATEMENT OF EARNINGS UNDER SUBSECTION (A) OF THIS SECTION.

3-1808.

(A) UNLESS EXEMPTED BY REGULATIONS ADOPTED BY THE COMMISSIONER, IN ADDITION TO THE REQUIREMENTS UNDER § 3-424 OF THIS TITLE, EACH EMPLOYER SHALL KEEP, FOR AT LEAST 3 YEARS, AN ACCURATE RECORD OF:

(1) THE WORK SCHEDULE OF EACH EMPLOYEE;

(2) THE SHIFTS WORKED EACH DAY AND WEEK BY EACH EMPLOYEE;

(3) THE PAY PAID TO EACH EMPLOYEE UNDER §§ 3-1804 AND 3-1805 OF THIS SUBTITLE; AND

(4) ANY SUBSEQUENT REVISIONS TO THE WORK SCHEDULE OF EACH EMPLOYEE.

(B) THE EMPLOYER SHALL:

(1) COMPLY WITH ANY REGULATIONS THAT THE MARYLAND DEPARTMENT OF LABOR ADOPTS REGARDING EMPLOYEE RECORD KEEPING;

(2) MAKE THE RECORDS KEPT UNDER SUBSECTION (A) OF THIS SECTION AVAILABLE FOR INSPECTION BY THE COMMISSIONER TO THE SAME

1 EXTENT AND FOR THE SAME PURPOSES AS RECORDS ARE MADE AVAILABLE TO THE
2 COMMISSIONER UNDER § 3-425 OF THIS TITLE; AND

3 (3) ALLOW AN EMPLOYEE TO INSPECT AT ANY REASONABLE TIME AND
4 PLACE ANY RECORD KEPT UNDER SUBSECTION (A) OF THIS SECTION PERTAINING TO
5 THE EMPLOYEE.

6 (C) EACH DAY THAT AN EMPLOYER FAILS TO KEEP A RECORD, FALSIFIES A
7 RECORD, OR OTHERWISE VIOLATES THIS SECTION SHALL CONSTITUTE A SEPARATE
8 VIOLATION.

9 3-1809.

10 (A) IN THIS SECTION, "RETALIATE" MEANS TO ENGAGE IN ANY FORM OF
11 INTIMIDATION, THREAT, REPRISAL, HARASSMENT, DISCRIMINATION, OR ADVERSE
12 EMPLOYMENT ACTION, INCLUDING:

13 (1) DISCIPLINE;

14 (2) DISCHARGE;

15 (3) SUSPENSION;

16 (4) TRANSFER OR ASSIGNMENT TO A LOWER POSITION IN TERMS OF
17 JOB CLASSIFICATION, JOB SECURITY, OR ANY OTHER CONDITION OF EMPLOYMENT;

18 (5) REDUCTION IN PAY OR HOURS ASSIGNED;

19 (6) DENIAL OF ADDITIONAL HOURS;

20 (7) INFORMING ANOTHER EMPLOYER THAT THE EMPLOYEE HAS
21 ENGAGED IN ACTIVITIES PROTECTED BY THIS SUBTITLE; AND

22 (8) REPORTING OR THREATENING TO REPORT THE ACTUAL OR
23 SUSPECTED CITIZENSHIP OR IMMIGRATION STATUS OF AN EMPLOYEE, A FORMER
24 EMPLOYEE, OR A FAMILY MEMBER OF AN EMPLOYEE OR A FORMER EMPLOYEE TO A
25 FEDERAL, STATE, OR LOCAL AGENCY.

26 (B) A PERSON MAY NOT INTERFERE WITH, RESTRAIN, OR DENY THE
27 EXERCISE OF, OR THE ATTEMPT TO EXERCISE, ANY RIGHT PROTECTED UNDER THIS
28 SUBTITLE.

29 (C) AN EMPLOYER MAY NOT RETALIATE AGAINST AN EMPLOYEE BECAUSE

1 THE EMPLOYEE HAS:

2 (1) DECLINED TO WORK HOURS NOT INCLUDED IN AN INITIAL WORK
3 SCHEDULE; OR

4 (2) EXERCISED RIGHTS PROTECTED UNDER THIS SUBTITLE,
5 INCLUDING THE RIGHT TO:

6 (I) FILE A COMPLAINT UNDER § 3-1810 OF THIS SUBTITLE;

7 (II) INFORM ANY PERSON ABOUT THE EMPLOYER'S ALLEGED
8 VIOLATION OF THIS SUBTITLE;

9 (III) COOPERATE WITH THE COMMISSIONER OR THE ATTORNEY
10 GENERAL IN AN INVESTIGATION OF AN ALLEGED VIOLATION OF THIS SUBTITLE; AND

11 (IV) INFORM AN INDIVIDUAL REGARDING THE INDIVIDUAL'S
12 RIGHTS UNDER THIS SUBTITLE.

13 (D) THERE IS A REBUTTABLE PRESUMPTION THAT AN EMPLOYER HAS
14 VIOLATED THIS SECTION IF THE EMPLOYER TAKES AN ACTION LISTED IN
15 SUBSECTION (A) OF THIS SECTION AGAINST AN EMPLOYEE WITHIN 90 DAYS AFTER
16 THE EMPLOYEE:

17 (1) FILES A COMPLAINT WITH THE COMMISSIONER UNDER § 3-1810
18 OF THIS SUBTITLE ALLEGING A VIOLATION OF THIS SUBTITLE OR BRINGS A CIVIL
19 ACTION UNDER § 3-1811 OF THIS SUBTITLE;

20 (2) INFORMS A PERSON ABOUT AN ALLEGED VIOLATION OF THIS
21 SUBTITLE BY THE EMPLOYER WITH THE EMPLOYER'S KNOWLEDGE;

22 (3) COOPERATES WITH THE COMMISSIONER OR ANOTHER PERSON IN
23 THE INVESTIGATION OR PROSECUTION OF AN ALLEGED VIOLATION OF THIS
24 SUBTITLE BY THE EMPLOYER;

25 (4) OPPOSES ANY POLICY, PRACTICE, OR ACT THAT IS UNLAWFUL
26 UNDER THIS SUBTITLE; OR

27 (5) INFORMS AN INDIVIDUAL OF THE INDIVIDUAL'S RIGHTS UNDER
28 THIS SUBTITLE WITH THE EMPLOYER'S KNOWLEDGE.

29 (E) THE PROTECTIONS AFFORDED UNDER THIS SECTION SHALL APPLY TO
30 AN EMPLOYEE WHO MISTAKENLY, BUT IN GOOD FAITH, ALLEGES A VIOLATION OF

1 THIS SUBTITLE.

2 3-1810.

3 (A) (1) A PERSON MAY FILE A COMPLAINT ALLEGING A VIOLATION OF
4 THIS SUBTITLE WITH THE COMMISSIONER.

5 (2) THE COMMISSIONER SHALL KEEP CONFIDENTIAL THE IDENTITY
6 OF A PERSON THAT FILES A COMPLAINT UNLESS DISCLOSURE IS NECESSARY FOR
7 THE RESOLUTION OF ANY INVESTIGATION OR IS OTHERWISE REQUIRED BY LAW.

8 (3) IF THE COMMISSIONER NEEDS TO DISCLOSE THE IDENTITY OF A
9 PERSON THAT FILES A COMPLAINT, THE COMMISSIONER SHALL, TO THE EXTENT
10 PRACTICABLE, NOTIFY THE PERSON BEFORE THE DISCLOSURE IS MADE.

11 (B) (1) ON RECEIPT OF A COMPLAINT FILED UNDER SUBSECTION (A)(1)
12 OF THIS SECTION, THE COMMISSIONER SHALL SEND A LETTER TO THE EMPLOYER.

13 (2) THE LETTER SHALL:

14 (I) STATE THAT THERE IS A COMPLAINT ALLEGING A
15 VIOLATION OF THIS SUBTITLE FILED AGAINST THE EMPLOYER;

16 (II) STATE THE REQUIREMENTS OF SUBSECTION (C) OF THIS
17 SECTION;

18 (III) STATE THAT FAILURE TO COMPLY MAY RESULT IN A CIVIL
19 ACTION SEEKING DAMAGES, COUNSEL FEES, AND OTHER LEGAL REMEDIES; AND

20 (IV) INFORM THE EMPLOYER THAT RETALIATION AGAINST AN
21 EMPLOYEE FOR EXERCISING RIGHTS UNDER THIS SECTION IS A BASIS FOR A
22 PRIVATE RIGHT OF ACTION SEEKING ADDITIONAL MONETARY DAMAGES TO BE
23 DETERMINED BY A COURT.

24 (C) IF AN EMPLOYER RECEIVES A LETTER SENT UNDER SUBSECTION (B) OF
25 THIS SECTION, WITHIN 10 DAYS AFTER THE DATE OF THE LETTER, THE EMPLOYER
26 SHALL SUBMIT TO THE COMMISSIONER:

27 (1) PROOF OF COMPLIANCE WITH THIS SUBTITLE; OR

28 (2) AN ACTION PLAN THE EMPLOYER WILL IMPLEMENT TO CORRECT
29 ANY VIOLATION OF THIS SUBTITLE.

(D) IF THE COMMISSIONER DETERMINES THAT THIS SUBTITLE HAS BEEN VIOLATED, THE COMMISSIONER MAY ISSUE AN ORDER:

(1) REQUIRING THE EMPLOYER TO:

(I) COMPLY WITH THIS SUBTITLE; AND

(II) PAY ANY PAY UNDER §§ 3-1804 AND 3-1805 OF THIS SUBTITLE OR OTHER WAGES OWED TO EMPLOYEES UNDER THIS SUBTITLE;

(2) IMPOSING A CIVIL PENALTY NOT TO EXCEED:

(I) \$200 FOR EACH VIOLATION OF § 3-1803(A) THROUGH (C) OF THIS SUBTITLE;

(II) \$300 FOR EACH VIOLATION OF §§ 3-1804 AND 3-1805 OF THIS SUBTITLE; AND

(III) \$500 FOR EACH VIOLATION OF §§ 3-1806 THROUGH 3-1809 OF THIS SUBTITLE; AND

(3) GRANTING ANY OTHER APPROPRIATE RELIEF, INCLUDING:

(I) REINSTATEMENT OF EMPLOYMENT;

(II) INJUNCTIVE RELIEF;

(III) ACTUAL DAMAGES; AND

(IV) AN ADDITIONAL AMOUNT EQUAL TO TWICE ANY PAY UNDER §§ 3-1804 AND 3-1805 OF THIS SUBTITLE OR OTHER WAGES OWED TO EMPLOYEES UNDER THIS SUBTITLE.

(E) FOR ANY RELIEF ORDERED UNDER SUBSECTION (D)(2)(I) AND (II) OF THIS SECTION, THE RELIEF SHALL BE IMPOSED FOR EACH EMPLOYEE AFFECTED BY THE VIOLATION DURING EACH PAY PERIOD THE VIOLATION CONTINUED.

(F) (1) WITHIN 30 DAYS AFTER RECEIVING AN ORDER ISSUED UNDER SUBSECTION (D) OF THIS SECTION, AN EMPLOYER MAY REQUEST A DE NOVO ADMINISTRATIVE HEARING.

(2) AN ADMINISTRATIVE HEARING REQUESTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE CONDUCTED IN ACCORDANCE WITH TITLE 10,

SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(3) IF AN EMPLOYER DOES NOT REQUEST A HEARING UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE ORDER ISSUED BY THE COMMISSIONER BECOMES FINAL.

(4) (I) A FINAL ORDER OF THE COMMISSIONER MAY BE APPEALED IN ACCORDANCE WITH § 10-222 OF THE STATE GOVERNMENT ARTICLE.

(II) IF AN EMPLOYER DOES NOT REQUEST JUDICIAL REVIEW OF A FINAL ORDER WITHIN 30 DAYS AFTER THE ORDER BECOMES FINAL, THE COMMISSIONER MAY FILE AN ACTION TO ENFORCE THE ORDER IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE EMPLOYER RESIDES OR HAS A PLACE OF BUSINESS.

(G) ON OR BEFORE FEBRUARY 1 EACH YEAR, THE COMMISSIONER SHALL POST ON THE WEBSITE OF THE MARYLAND DEPARTMENT OF LABOR:

(1) THE NUMBER AND NATURE OF COMPLAINTS FILED UNDER THIS SECTION;

(2) THE RESULTS OF ANY INVESTIGATIONS RELATED TO A COMPLAINT;

(3) THE NUMBER OF ORDERS ISSUED AND PENALTIES IMPOSED UNDER THIS SECTION; AND

(4) THE AVERAGE TIME TAKEN FOR A COMPLAINT TO BE RESOLVED.

3-1811.

(A) (1) ANY PERSON ALLEGING A VIOLATION OF THIS SUBTITLE MAY BRING AN ACTION IN A COURT OF COMPETENT JURISDICTION.

(2) AN ACTION MAY BE BROUGHT WHETHER OR NOT A COMPLAINT WAS FIRST FILED WITH THE COMMISSIONER.

(3) AN ACTION BROUGHT UNDER THIS SUBSECTION:

(I) SHALL BE FILED WITHIN 3 YEARS AFTER THE PERSON KNEW OR SHOULD HAVE KNOWN OF THE ALLEGED VIOLATION; AND

(II) MAY BE BROUGHT AS A CLASS ACTION IN ACCORDANCE

1 WITH STATE LAW.

2 (B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN AN ACTION
3 UNDER SUBSECTION (A) OF THIS SECTION, IF A COURT FINDS THAT AN EMPLOYER
4 HAS VIOLATED THIS SUBTITLE, THE COURT MAY:

5 (I) ISSUE AN ORDER REQUIRING THE EMPLOYER TO COMPLY
6 WITH THIS SUBTITLE; AND

7 (II) AWARD:

8 1. DAMAGES NOT TO EXCEED:

9 A. \$200 FOR EACH VIOLATION OF § 3-1803(A) THROUGH
10 (C) OF THIS SUBTITLE;

11 B. \$300 FOR EACH VIOLATION OF §§ 3-1804 AND 3-1805
12 OF THIS SUBTITLE; AND

13 C. \$500 FOR EACH VIOLATION OF §§ 3-1806 THROUGH
14 3-1809 OF THIS SUBTITLE;

15 2. REINSTATEMENT OF EMPLOYMENT;

16 3. INJUNCTIVE RELIEF;

17 4. ACTUAL DAMAGES;

18 5. ANY PAY UNDER §§ 3-1804 AND 3-1805 OF THIS
19 SUBTITLE OR OTHER WAGES OWED TO EMPLOYEES UNDER THIS SUBTITLE PLUS
20 INTEREST;

21 6. AN ADDITIONAL AMOUNT EQUAL TO TWICE ANY PAY
22 UNDER §§ 3-1804 AND 3-1805 OF THIS SUBTITLE OR OTHER WAGES OWED TO
23 EMPLOYEES UNDER THIS SUBTITLE; AND

24 7. REASONABLE ATTORNEY'S FEES AND OTHER COSTS.

25 (2) THE RELIEF AUTHORIZED UNDER PARAGRAPH (1) OF THIS
26 SUBSECTION SHALL BE IMPOSED ON A PER-EMPLOYEE AND PER-INSTANCE BASIS
27 FOR EACH VIOLATION.

28 (3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS

1 PARAGRAPH, IF A COURT FINDS THAT AN EMPLOYER HAS VIOLATED § 3-1809(B) OF
2 THIS SUBTITLE OR OTHERWISE DISCRIMINATED AGAINST AN EMPLOYEE, THE
3 COURT SHALL AWARD ACTUAL DAMAGES AND REINSTATEMENT OF EMPLOYMENT.

4 (II) A COURT IS NOT REQUIRED TO AWARD REINSTATEMENT OF
5 EMPLOYMENT IF THE EMPLOYEE WAIVES THE RIGHT TO REINSTATEMENT.

6 (III) IF THE COURT FINDS THAT THE EMPLOYEE HAS BEEN
7 DISCHARGED IN RETALIATION FOR EXERCISING RIGHTS UNDER THIS SUBTITLE, FOR
8 THE PURPOSE OF CALCULATING ACTUAL DAMAGES REQUIRED TO BE AWARDED
9 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE PERIOD OF VIOLATION
10 BEGINS THE DAY THE EMPLOYEE WAS DISCHARGED AND ENDS THE DAY BEFORE THE
11 EMPLOYEE IS REINSTATED OR THE DAY THE EMPLOYEE AGREES TO WAIVE
12 REINSTATEMENT.

13 (C) IN AN ACTION BROUGHT BY A PERSON OTHER THAN AN EMPLOYEE, ANY
14 PAY OR WAGES UNDER §§ 3-1804 AND 3-1805 OF THIS SUBTITLE OR ACTUAL
15 DAMAGES AWARDED BY THE COURT SHALL BE PAID TO THE EMPLOYEES TO WHOM
16 THE VIOLATION RELATES.

17 3-1812.

18 THIS SUBTITLE MAY BE CITED AS THE MARYLAND PREDICTABLE
19 SCHEDULING ACT.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2024.