

SENATE BILL 233

K3

(PRE-FILED)

4lr4566
CF HB 136

By: **Chair, Finance Committee (By Request – Departmental – Labor)**

Requested: September 28, 2023

Introduced and read first time: January 10, 2024

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Employment Standards, Prevailing Wage, and Living Wage – Employer Adverse**
3 **Actions – Prohibition**

4 FOR the purpose of prohibiting employers from taking or threatening to take adverse action
5 against an employee because the employee takes certain actions regarding rights
6 and responsibilities, complaints, investigations, proceedings, or hearings under
7 certain provisions of law; authorizing the Commissioner of Labor and Industry to
8 investigate a violation of this Act on the Commissioner's own initiative or on receipt
9 of a written complaint; and generally relating to employer adverse actions.

10 BY adding to
11 Article – Labor and Employment
12 Section 3–105
13 Annotated Code of Maryland
14 (2016 Replacement Volume and 2023 Supplement)

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

17 **Article – Labor and Employment**

18 **3–105.**

19 **(A) THIS SECTION APPLIES ONLY TO AN EMPLOYER ACTION TAKEN UNDER:**

20 **(1) SUBTITLE 3 OF THIS TITLE;**

21 **(2) SUBTITLE 4 OF THIS TITLE;**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(3) SUBTITLE 9 OF THIS TITLE;

**(4) TITLE 17, SUBTITLE 2 OF THE STATE FINANCE AND
PROCUREMENT ARTICLE; OR**

(5) TITLE 18 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

**(B) AN EMPLOYER MAY NOT DISCHARGE, DEMOTE, DISCRIMINATE AGAINST,
TAKE OTHER ADVERSE ACTION, OR THREATEN TO TAKE ADVERSE ACTION AGAINST
AN EMPLOYEE BECAUSE THE EMPLOYEE:**

**(1) INQUIRES ABOUT THE RIGHTS AND RESPONSIBILITIES OF THE
EMPLOYER OR EMPLOYEE UNDER A PROVISION OF LAW LISTED IN SUBSECTION (A)
OF THIS SECTION;**

**(2) MAKES A COMPLAINT, OR COMMUNICATES AN INTENT TO MAKE A
COMPLAINT, TO THE EMPLOYER, THE COMMISSIONER, OR ANOTHER PERSON
REGARDING A VIOLATION OF A PROVISION OF LAW LISTED IN SUBSECTION (A) OF
THIS SECTION; OR**

**(3) TESTIFIES, INTENDS TO TESTIFY, OR OTHERWISE ASSISTS IN ANY
MANNER IN AN INVESTIGATION, PROCEEDING, OR HEARING UNDER A PROVISION OF
LAW LISTED IN SUBSECTION (A) OF THIS SECTION.**

**(C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
COMMISSIONER:**

**(1) MAY INVESTIGATE A VIOLATION OF THIS SECTION ON THE
COMMISSIONER'S OWN INITIATIVE OR ON RECEIPT OF A WRITTEN COMPLAINT; AND**

**(2) SHALL CONDUCT THE INVESTIGATION AND ENFORCEMENT OF A
VIOLATION OF THIS SECTION IN ACCORDANCE WITH SUBSECTIONS (D) AND (E) OF
THIS SECTION.**

**(D) (1) WITHIN 90 DAYS AFTER THE RECEIPT OF A WRITTEN COMPLAINT,
THE COMMISSIONER SHALL CONDUCT AN INVESTIGATION AND ATTEMPT TO
RESOLVE THE ISSUE INFORMALLY THROUGH MEDIATION.**

**(2) (I) IF THE COMMISSIONER IS UNABLE TO RESOLVE AN ISSUE
THROUGH MEDIATION DURING THE PERIOD STATED IN PARAGRAPH (1) OF THIS
SUBSECTION AND THE COMMISSIONER DETERMINES THAT AN EMPLOYER HAS
VIOLATED THIS SUBTITLE, THE COMMISSIONER SHALL ISSUE AN ORDER.**

(II) AN ORDER ISSUED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH:

1. SHALL DESCRIBE THE VIOLATION;

2. SHALL DIRECT, IF APPROPRIATE, THE RECOVERY OF LOST WAGES AND DAMAGES EQUAL TO THE AMOUNT OF WAGES, SALARY, EMPLOYMENT BENEFITS, OR OTHER COMPENSATION DENIED OR LOST, AND ANY ACTUAL ECONOMIC DAMAGES;

3. MAY, IN THE COMMISSIONER'S DISCRETION, SEEK REINSTATEMENT OR THE HIRING OF EMPLOYEES WITH OR WITHOUT BACK PAY; AND

4. MAY, IN THE COMMISSIONER'S DISCRETION, ASSESS A CIVIL PENALTY OF UP TO \$1,000 FOR EACH EMPLOYEE FOR WHOM THE EMPLOYER IS NOT IN COMPLIANCE WITH THIS TITLE.

(3) THE ACTIONS TAKEN UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION ARE SUBJECT TO THE HEARING AND NOTICE REQUIREMENTS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(E) (1) WITHIN 30 DAYS AFTER THE COMMISSIONER ISSUES AN ORDER, AN EMPLOYER SHALL COMPLY WITH THE ORDER.

(2) IF AN EMPLOYER DOES NOT COMPLY WITH AN ORDER WITHIN THE TIME PERIOD STATED IN PARAGRAPH (1) OF THIS SUBSECTION:

(I) THE COMMISSIONER MAY:

1. WITH THE WRITTEN CONSENT OF THE EMPLOYEE, ASK THE ATTORNEY GENERAL TO BRING AN ACTION ON BEHALF OF THE EMPLOYEE IN THE COUNTY WHERE THE EMPLOYER IS LOCATED; OR

2. BRING AN ACTION TO ENFORCE THE ORDER FOR THE CIVIL PENALTY IN THE COUNTY WHERE THE EMPLOYER IS LOCATED; AND

(II) WITHIN 3 YEARS AFTER THE DATE OF THE ORDER, AN EMPLOYEE MAY BRING A CIVIL ACTION TO ENFORCE THE ORDER IN THE COUNTY WHERE THE EMPLOYER IS LOCATED.

(3) IF AN EMPLOYEE PREVAILS IN AN ACTION BROUGHT UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION TO ENFORCE AN ORDER, THE COURT MAY AWARD:

(I) THREE TIMES THE VALUE OF THE EMPLOYEE'S LOST WAGES
AND DAMAGES EQUAL TO THE AMOUNT OF WAGES, SALARY, EMPLOYMENT
BENEFITS, OR OTHER COMPENSATION DENIED OR LOST;

(II) PUNITIVE DAMAGES IN AN AMOUNT TO BE DETERMINED BY
THE COURT;

(III) REASONABLE COUNSEL FEES AND OTHER COSTS;

(IV) INJUNCTIVE RELIEF, IF APPROPRIATE; AND

(V) ANY OTHER RELIEF THAT THE COURT DETERMINES IS
APPROPRIATE.

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