

HOUSE BILL 581

K3, E4, C4

EMERGENCY BILL

1lr1330
CF SB 486

By: **Delegate D.E. Davis**

Introduced and read first time: January 20, 2021

Assigned to: Economic Matters and Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Employment Standards During an Emergency**
3 **(Maryland Essential Workers’ Protection Act)**

4 FOR the purpose of requiring the Maryland Health Benefit Exchange to provide for a
5 special enrollment period for health insurance coverage for certain essential workers
6 during certain emergencies; requiring an essential employer to give a written
7 statement regarding certain hazard pay paid to certain essential workers at certain
8 intervals; requiring the Maryland Emergency Management Agency and a local
9 organization of emergency services to periodically evaluate and determine whether
10 an emergency is occurring or has occurred and make a certain announcements under
11 certain circumstances; requiring an essential employer to take certain actions
12 related to occupational safety and health during an emergency; authorizing an
13 essential worker to refuse to fulfill a certain responsibility under certain
14 circumstances; prohibiting an essential employer from retaliating or taking other
15 adverse action against an essential worker or other worker for certain actions;
16 requiring an essential worker to notify the Commissioner of Labor of Industry of
17 certain information within a certain time period for a certain purpose; providing for
18 the enforcement of this Act; requiring an essential employer to comply with certain
19 standards, protocols, and procedures established by the Commissioner; requiring
20 essential employers to prepare a certain plan and take certain actions with regard
21 to the plan; requiring essential employers to take certain steps to minimize the risk
22 of transmission of an infectious disease under certain circumstances; requiring an
23 essential employer to pay costs associated with certain testing under certain
24 circumstances; requiring essential employees to report certain test results to the
25 Maryland Department of Health in a certain manner; requiring essential employers
26 to provide essential workers with certain bereavement and health leave; requiring
27 essential employers to provide certain essential workers with certain hazard pay in
28 a certain manner; prohibiting an essential employer from lowering certain pay for a
29 certain purpose; requiring essential employers to provide certain financial assistance
30 during an emergency under certain circumstances and in a certain manner;
31 prohibiting certain financial assistance from being counted towards an essential

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



worker's eligibility for State means-tested benefit programs; prohibiting an essential employer from misclassifying an essential worker; defining certain terms; providing for the application of this Act; making this Act an emergency measure, and generally relating to employment standards during an emergency.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 31–108(b)(6)
Annotated Code of Maryland
(2017 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 3–504
Annotated Code of Maryland
(2016 Replacement Volume and 2020 Supplement)

BY adding to
Article – Labor and Employment
Section 3–1601 through 3–1612 to be the new subtitle “Subtitle 16. Maryland
Essential Workers’ Protection Act”
Annotated Code of Maryland
(2016 Replacement Volume and 2020 Supplement)

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

Article – Insurance

31–108.

(b) In compliance with § 1311(d)(4) of the Affordable Care Act, the Exchange shall:

(6) provide for initial, annual, and special enrollment periods, in accordance with guidelines adopted by the Secretary under § 1311(c)(6) of the Affordable Care Act, **INCLUDING A SPECIAL ENROLLMENT PERIOD DURING AN EMERGENCY, AS DEFINED UNDER § 3–1601 OF THE LABOR AND EMPLOYMENT ARTICLE, FOR AN ESSENTIAL WORKER, AS DEFINED IN § 3–1601 OF THE LABOR AND EMPLOYMENT ARTICLE, WHO IS NOT INSURED UNDER A GROUP HEALTH BENEFIT PLAN SPONSORED BY THE EMPLOYER;**

Article – Labor and Employment

3–504.

(a) An employer shall give to each employee:

(1) at the time of hiring, notice of:

(i) the rate of pay of the employee;

(ii) the regular paydays that the employer sets; and

(iii) leave benefits;

(2) for each pay period[,]:

(I) a statement of the gross earnings of the employee and deductions from those gross earnings; and

(II) IF APPLICABLE, A WRITTEN STATEMENT OF HAZARD PAY EARNED UNDER SUBTITLE 16 OF THIS TITLE; AND

(3) at least 1 pay period in advance, notice of any change in a payday or wage.

(b) This section does not prohibit an employer from increasing a wage without advance notice.

SUBTITLE 16. MARYLAND ESSENTIAL WORKERS' PROTECTION ACT.

3-1601.

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

(B) "EMERGENCY" MEANS:

(1) THE IMMINENT THREAT OR OCCURRENCE OF SEVERE OR WIDESPREAD LOSS OF LIFE, INJURY, OR OTHER HEALTH IMPACTS, PROPERTY DAMAGE OR DESTRUCTION, SOCIAL OR ECONOMIC DISRUPTION, OR ENVIRONMENTAL DEGRADATION FROM NATURAL, TECHNOLOGICAL, OR HUMAN-MADE CAUSES; OR

(2) AN INCIDENT, OCCURRENCE, OR OUTBREAK THAT IS THE SUBJECT OF:

(I) AN EXECUTIVE ORDER;

(II) AN EXECUTIVE DECLARATION UNDER § 14-107 OF THE PUBLIC SAFETY ARTICLE; OR

(III) AN EXECUTIVE PROCLAMATION UNDER § 14-3A-02 OF THE
PUBLIC SAFETY ARTICLE.

(C) (1) "ESSENTIAL EMPLOYER" MEANS A PERSON THAT EMPLOYS AN
ESSENTIAL WORKER.

(2) "ESSENTIAL EMPLOYER" INCLUDES A UNIT OF STATE OR LOCAL
GOVERNMENT.

(D) (1) "ESSENTIAL WORKER" MEANS AN INDIVIDUAL WHO PERFORMS A
DUTY OR WORK RESPONSIBILITY DURING AN EMERGENCY THAT CANNOT BE
PERFORMED REMOTELY OR IS REQUIRED TO BE COMPLETED AT THE WORKSITE.

(2) "ESSENTIAL WORKER" INCLUDES A CONTRACTOR OR
SUBCONTRACTOR.

3-1602.

THIS SUBTITLE APPLIES ONLY TO ESSENTIAL EMPLOYERS IN THE FOLLOWING
INDUSTRIES AND SECTORS:

(1) THE CHEMICAL SECTOR, INCLUDING CHEMICAL
MANUFACTURERS, PHARMACEUTICAL MANUFACTURERS, AND DISTRIBUTORS OF
CHEMICALS AND PHARMACEUTICALS;

(2) THE COMMERCIAL SECTOR, INCLUDING:

(I) ARBORISTS;

(II) AUTOMOBILE SALES AND SERVICES;

(III) COMMERCIAL AND RESIDENTIAL CONSTRUCTION
COMPANIES;

(IV) COMPANIES THAT SELL SUPPLIES AND MATERIALS FOR THE
MAINTENANCE OF COMMERCIAL AND RESIDENTIAL BUSINESSES, INCLUDING HOME
IMPROVEMENT SUPPLY STORES;

(V) ENVIRONMENTAL SERVICES COMPANIES;

(VI) EXTERMINATORS;

(VII) JANITORIAL FIRMS;

(VIII) LANDSCAPERS;

(IX) LAUNDROMATS, DRY CLEANERS, AND LAUNDRY SERVICE COMPANIES;

(X) LODGING, BUILDING, AND PROPERTY MAINTENANCE COMPANIES;

(XI) PLUMBERS, ELECTRICIANS, AND HEATING, VENTILATION, AIR CONDITIONING, AND REFRIGERATION CONTRACTORS AND THE DISTRIBUTORS OF SUPPLIES THAT SUPPORT THOSE PROFESSIONS;

(XII) ROOFERS; AND

(XIII) SELF-STORAGE FACILITIES;

(3) THE COMMUNICATIONS SECTOR, INCLUDING:

(I) BROADCASTING COMPANIES AND STATIONS;

(II) CABLE TELEVISION COMPANIES;

(III) CELLULAR AND LANDLINE TELEPHONE COMPANIES; AND

(IV) INTERNET SERVICE PROVIDERS;

(4) THE CRITICAL MANUFACTURING SECTOR, INCLUDING:

(I) MANUFACTURERS OF:

1. CLEANING AND SANITATION EQUIPMENT AND SUPPLIES;

2. ENGINES, MOTORS, TURBINES, GENERATORS, AND POWER TRANSMISSION EQUIPMENT;

3. LAND, AIR, AND WATER VEHICLES AND RELATED PARTS;

4. MEDICAL EQUIPMENT;

1 **5. PARTS FOR WATER, ELECTRIC, AND**
2 **TELECOMMUNICATIONS UTILITY INFRASTRUCTURE;**

3 **6. PERSONAL PROTECTIVE EQUIPMENT; AND**

4 **7. STEEL, IRON, AND ALUMINUM PRODUCTS;**

5 **(II) COMPANIES THAT RESEARCH, DEVELOP, MANUFACTURE,**
6 **OR INTEGRATE WEAPONS, DEFENSE, OR INTELLIGENCE SYSTEMS OR ASSETS;**

7 **(III) THE DEFENSE INDUSTRIAL BASE SECTOR; AND**

8 **(IV) PRIVATE CONTRACTORS THAT SUPPORT DEFENSE AND**
9 **INTELLIGENCE AGENCIES;**

10 **(5) THE EMERGENCY SERVICES SECTOR, INCLUDING:**

11 **(I) CORRECTIONAL INSTITUTIONS;**

12 **(II) EMERGENCY MANAGEMENT;**

13 **(III) EMERGENCY MEDICAL SERVICES;**

14 **(IV) FIRE AND RESCUE SERVICES;**

15 **(V) LAW ENFORCEMENT; AND**

16 **(VI) PRIVATE AMBULANCE COMPANIES;**

17 **(6) THE ENERGY SECTOR, INCLUDING:**

18 **(I) COMPANIES ENGAGED IN THE GENERATION OF**
19 **ELECTRICITY, EXCLUDING HYDROELECTRIC ENERGY COMPANIES AND NUCLEAR**
20 **ENERGY COMPANIES;**

21 **(II) COMPANIES ENGAGED IN THE PRODUCTION, REFINING,**
22 **STORAGE, TRANSPORTATION, DISTRIBUTION, OR SALE OF OIL, GAS, AND PROPANE**
23 **PRODUCTS, INCLUDING GAS STATIONS AND TRUCK STOPS; AND**

24 **(III) COMPANIES THAT PROVIDE UTILITY MAINTENANCE**
25 **SERVICES;**

26 **(7) THE FOOD AND AGRICULTURE SECTOR, INCLUDING:**

**(II) COMPANIES THAT MANUFACTURE OR SUPPORT THE
MANUFACTURE OF PAPER PRODUCTS;**

(IV) FARMS;

(VI) GROCERY STORES;

(VIII) FOOD MANUFACTURERS AND PROCESSORS;

(X) VETERINARY HOSPITALS, CLINICS, AND KENNELS;

(I) BAIL BONDSMEN;

(II) COURT REPORTERS; AND

(III) LAWYERS AND LAW FIRMS:

(I) BEHAVIORAL HEALTH FACILITIES AND PROFESSIONALS, INCLUDING PSYCHOLOGISTS, MENTAL HEALTH COUNSELORS, AND SUBSTANCE ABUSE COUNSELORS;

**(II) DIAGNOSTIC FACILITIES, INCLUDING RADIOLOGY,
IMAGING, AND LABORATORY FACILITIES:**

(III) FUNERAL HOMES AND CREMATORIALS;

(IV) HEALTH CARE SYSTEMS AND CLINICS;

(V) HEALTH INSURANCE CARRIERS, PAYORS, AND BILLING COMPANIES;

(VI) HOME HEALTH CARE COMPANIES;

(VII) HOSPITALS;

(VIII) MANUFACTURERS AND DISTRIBUTORS OF MEDICAL EQUIPMENT AND SUPPLIES;

(IX) MEDICAL CANNABIS GROWERS, PROCESSORS, AND DISPENSARIES;

(X) OFFICES OF HEALTH CARE PROVIDERS, INCLUDING PHYSICIANS AND DENTISTS;

(XI) PHARMACIES AND PHARMACISTS;

(XII) OCCUPATIONAL THERAPISTS, PHYSICAL THERAPISTS, AND SPEECH THERAPISTS;

(XIII) REHABILITATION FACILITIES; AND

(XIV) SENIOR LIVING FACILITIES, INCLUDING INDEPENDENT LIVING, ASSISTED LIVING, AND SKILLED NURSING;

(10) THE INFORMATION TECHNOLOGY SECTOR, INCLUDING:

(I) COMPANIES THAT DESIGN, DEVELOP, DISTRIBUTE, HOST, SELL, AND SUPPORT INFORMATION TECHNOLOGY SOFTWARE AND HARDWARE; AND

(II) COMPANIES THAT PROVIDE NETWORK ROUTING, ACCESS, AND CONFIGURATION SERVICES;

(11) THE MOTOR CARRIER INDUSTRY, INCLUDING:

(I) CARRIERS OF MARINE FREIGHT, INCLUDING OCEAN CARRIERS AND INLAND CARRIERS;

(II) COURIER, PACKAGE DELIVERY, MAIL SERVICE, AND MAIL MANAGEMENT COMPANIES;

1 (III) MARINE, RAIL, TRUCK, AND INTERMODAL TERMINALS AND
2 OPERATORS; AND

3 (IV) STEVEDORES, LONGSHOREMEN, BAGGAGE HANDLERS, AND
4 OTHERS WHO HANDLE CARGO AT TRANSPORTATION HUBS;

5 (12) THE SERVICE SECTOR, INCLUDING CHILDCARE PROVIDERS AND
6 STAFF, ELDER CARE PROVIDERS AND STAFF, AND PERSONAL SERVICES PROVIDERS;

7 (13) THE TRANSPORTATION SYSTEMS SECTOR, INCLUDING:

8 (I) AIRLINES AND OPERATORS OF MANNED AND UNMANNED
9 COMMERCIAL AIRCRAFT, AIRPORTS, AIR STRIPS, HELIPORTS, AND SEAPLANE
10 BASES; AND

11 (II) RAILROADS;

12 (14) THE WAREHOUSING AND DISTRIBUTION SECTOR, INCLUDING:

13 (I) COMPANIES THAT SUPPLY PARTS OR PROVIDE
14 MAINTENANCE AND REPAIR SERVICES FOR TRANSPORTATION ASSETS AND
15 INFRASTRUCTURE, INCLUDING AIRCRAFT, MARINE VESSELS, LOCOMOTIVES, RAIL
16 CARS, TRUCKS, BUSES, CARS, HEAVY EQUIPMENT, ROADS, BRIDGES, AND TUNNELS;

17 (II) LESSORS OF TRANSPORTATION ASSETS, INCLUDING
18 RAILCARS AND TRUCK TRAILERS; AND

19 (III) PIPELINE OWNERS, OPERATORS, AND MAINTENANCE
20 COMPANIES; AND

21 (15) PERSONNEL OF ANY OTHER INSTITUTION OR INDUSTRY ORDERED
22 TO REMAIN OPEN DURING THE EMERGENCY.

23 3-1603.

24 (A) IN THIS SECTION, "AGENCY" MEANS:

25 (1) A LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT, AS
26 DEFINED IN § 14-101.1 OF THE PUBLIC SAFETY ARTICLE; OR

27 (2) THE MARYLAND EMERGENCY MANAGEMENT AGENCY.

1 **(B) EACH AGENCY SHALL PERIODICALLY EVALUATE AND DETERMINE**
2 **WHETHER AN EMERGENCY IS OCCURRING OR HAS OCCURRED.**

3 **(C) (1) IF AN AGENCY DETERMINES THAT AN EMERGENCY IS OCCURRING**
4 **OR HAS OCCURRED, THE AGENCY SHALL ANNOUNCE PUBLICLY IN WRITING THAT**
5 **THE EMERGENCY IS OCCURRING OR HAS OCCURRED AND THAT ESSENTIAL**
6 **EMPLOYERS ARE REQUIRED TO COMPLY WITH §§ 3-1605, 3-1608, AND 3-1609 OF**
7 **THIS SUBTITLE.**

8 **(2) ONCE THE EMERGENCY HAS SUBSIDED, THE AGENCY THAT MADE**
9 **THE ANNOUNCEMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL**
10 **ANNOUNCE PUBLICLY IN WRITING THAT ESSENTIAL EMPLOYERS NO LONGER NEED**
11 **TO:**

12 **(I) ALLOW AN ESSENTIAL WORKER TO REFUSE TO FULFILL**
13 **WORK RESPONSIBILITIES UNDER § 3-1605 OF THIS SUBTITLE;**

14 **(II) PROVIDE HEALTH LEAVE OR BEREAVEMENT LEAVE UNDER**
15 **§ 3-1608 OF THIS SUBTITLE; OR**

16 **(III) PROVIDE ASSISTANCE WITH HEALTH INSURANCE COSTS**
17 **UNDER § 3-1609 OF THIS SUBTITLE.**

18 **3-1604.**

19 **DURING AN EMERGENCY, EACH ESSENTIAL EMPLOYER SHALL:**

20 **(1) PROVIDE WORKING CONDITIONS THAT:**

21 **(I) REDUCE PHYSICAL HARM AND MENTAL DISTRESS AND**
22 **DETRIMENT; AND**

23 **(II) ENSURE PHYSICAL HEALTH AND SAFETY;**

24 **(2) PROVIDE NECESSARY AMOUNTS OF PERSONAL PROTECTIVE**
25 **EQUIPMENT AT NO COST TO ESSENTIAL WORKERS;**

26 **(3) CREATE AND MAINTAIN WRITTEN PROTOCOLS TO ENFORCE ANY**
27 **NECESSARY HYGIENIC PRACTICES OR DISEASE MITIGATION MEASURES AT A**
28 **WORKSITE; AND**

(4) PROVIDE OR IMPLEMENT ANY OTHER MEASURES OR REQUIREMENTS TO ENSURE THE GENERAL HEALTH AND SAFETY OF ESSENTIAL WORKERS.

3-1605.

(A) (1) IN THIS SECTION, "UNSAFE WORK ENVIRONMENT" MEANS ANY CIRCUMSTANCE PRESENT AT A WORKSITE THAT RENDERS AN ESSENTIAL WORKER UNABLE TO PERFORM REQUIRED DAILY DUTIES BECAUSE THE PHYSICAL CONDITION OF THE WORKSITE REPRESENTS A REASONABLE THREAT TO A WORKER'S HEALTH OR SAFETY.

(2) "UNSAFE WORK ENVIRONMENT" INCLUDES:

(I) UNSANITARY CONDITIONS IN THE WORKPLACE;

(II) AN ESSENTIAL EMPLOYER'S FAILURE TO PROVIDE PERSONAL PROTECTIVE EQUIPMENT;

(III) LACK OF EMPLOYER ADHERENCE TO FEDERAL AND STATE HEALTH AND SAFETY STANDARDS RELATED TO THE EMERGENCY;

(IV) AN ESSENTIAL EMPLOYER'S FAILURE TO DEVELOP AND ENFORCE HEALTH AND SAFETY PROTOCOLS RELATED TO THE EMERGENCY; AND

(V) AN ESSENTIAL EMPLOYER'S FAILURE TO NOTIFY WORKERS OF ILLNESSES, BROKEN OR IMPROPERLY FUNCTIONING EQUIPMENT, OR ANY OTHER DANGEROUS OR HAZARDOUS CONDITIONS WHICH REPRESENT A REASONABLE THREAT TO THE ESSENTIAL WORKER'S HEALTH OR SAFETY.

(B) SUBJECT TO THE REQUIREMENTS SET FORTH IN SUBSECTION (D) OF THIS SECTION, IF AN ESSENTIAL WORKER FEARS FOR THE ESSENTIAL WORKER'S LIFE OR HEALTH DURING AN EMERGENCY DUE TO THE NATURE OF THE WORK BEING PERFORMED, AN ESSENTIAL WORKER MAY REFUSE TO FULFILL A RESPONSIBILITY THAT:

(1) IS REQUIRED OR ENCOURAGED BY AN ESSENTIAL EMPLOYER; AND

(2) RELATES TO AN UNSAFE WORK ENVIRONMENT.

(C) AN ESSENTIAL EMPLOYER MAY NOT RETALIATE AGAINST AN ESSENTIAL WORKER OR ANY OTHER WORKER IN THE FORM OF DISCHARGE, DISCIPLINARY ACTION, OR OTHER ADVERSE ACTION FOR:

1 (1) WITNESSING A CONDITION CAUSING AN UNSAFE WORK
2 ENVIRONMENT;

3 (2) NOTIFYING THE ESSENTIAL EMPLOYER OR A GOVERNMENTAL
4 ENTITY OF THE UNSAFE WORK ENVIRONMENT; OR

5 (3) FILING A FORMAL OR INFORMAL COMPLAINT.

6 (D) (1) IN ORDER TO BE PROTECTED UNDER SUBSECTION (C) OF THIS
7 SECTION, AN ESSENTIAL WORKER SHALL PROMPTLY NOTIFY THE COMMISSIONER IN
8 WRITING WITHIN 3 DAYS AFTER THE DATE ON WHICH THE ESSENTIAL WORKER
9 BECAME AWARE OF THE CONDITION CAUSING AN UNSAFE WORK ENVIRONMENT.

10 (2) THE COMMISSIONER SHALL:

11 (I) PROMPTLY NOTIFY THE ESSENTIAL EMPLOYER OF THE
12 CONTENT OF THE WRITTEN COMPLAINT; AND

13 (II) IN ITS DISCRETION, SET FORTH REQUIREMENTS THAT THE
14 ESSENTIAL EMPLOYER SHALL MEET TO EFFECTIVELY AND IMMEDIATELY REMEDY
15 THE UNSAFE WORK ENVIRONMENT.

16 (3) (I) IF AN ESSENTIAL EMPLOYER DOES NOT REMEDY THE
17 CONDITION CAUSING THE UNSAFE WORK ENVIRONMENT, THE COMMISSIONER
18 SHALL ASSESS A CIVIL PENALTY OF NOT MORE THAN \$50 FOR EACH DAY THAT THE
19 CONDITION CAUSING THE UNSAFE WORK ENVIRONMENT IS NOT REMEDIED.

20 (II) THE AMOUNT OF A PENALTY ASSESSED UNDER
21 SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT EXCEED \$1,000 PER
22 OCCURRENCE.

23 (III) IF THE COMMISSIONER DETERMINES THAT AN EMPLOYER
24 HAS VIOLATED THE PROVISIONS OF THIS SECTION, THE COMMISSIONER:

25 1. SHALL ISSUE AN ORDER COMPELLING COMPLIANCE;
26 AND

27 2. MAY, IN THE COMMISSIONER'S DISCRETION, ASSESS A
28 PENALTY OF UP TO \$1,000 FOR EACH APPLICANT FOR EMPLOYMENT FOR WHOM THE
29 EMPLOYER WAS NOT IN COMPLIANCE.

1 (IV) IN DETERMINING THE AMOUNT OF THE PENALTY, THE
2 COMMISSIONER SHALL CONSIDER:

- 3 1. THE GRAVITY OF THE VIOLATION;
- 4 2. THE SIZE OF THE EMPLOYER'S BUSINESS;
- 5 3. THE EMPLOYER'S GOOD FAITH; AND
- 6 4. THE EMPLOYER'S HISTORY OF VIOLATIONS UNDER
7 THE SECTION.

8 (4) IF THE COMMISSIONER ASSESSES A PENALTY UNDER PARAGRAPH
9 (3)(II) OF THIS SUBSECTION, THE PENALTY SHALL BE SUBJECT TO THE NOTICE AND
10 HEARING REQUIREMENTS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT
11 ARTICLE.

12 (5) THE COMMISSIONER SHALL ADOPT REGULATIONS TO CARRY OUT
13 THIS SUBSECTION.

14 (E) IN ADDITION TO THE REQUIREMENTS OF THIS SUBTITLE, AN ESSENTIAL
15 EMPLOYER SHALL COMPLY WITH ANY STANDARDS, PROTOCOLS, OR PROCEDURES
16 THAT THE COMMISSIONER REQUIRES, INCLUDING ANY EMERGENCY OR TEMPORARY
17 STANDARD.

18 3-1606.

19 (A) EACH ESSENTIAL EMPLOYER SHALL:

20 (1) PREPARE A HEALTH EMERGENCY PREPAREDNESS PLAN FOR
21 RESPONDING TO A CATASTROPHIC HEALTH EMERGENCY AS DEFINED UNDER §
22 14-3A-01 OF THE PUBLIC SAFETY ARTICLE; AND

23 (2) ANNUALLY REVIEW THE HEALTH EMERGENCY PREPAREDNESS
24 PLAN AND SUBMIT ANY CHANGES TO THE DIRECTOR OF THE MARYLAND
25 EMERGENCY MANAGEMENT AGENCY.

26 (B) THE HEALTH EMERGENCY PREPAREDNESS PLAN REQUIRED UNDER
27 SUBSECTION (A) OF THIS SECTION SHALL CONTAIN THE FOLLOWING PROVISIONS:

28 (1) STEPS AN ESSENTIAL WORKER MAY TAKE IF AN ESSENTIAL
29 EMPLOYER ENGAGES IN RETALIATION OR OTHER UNLAWFUL EMPLOYMENT
30 PRACTICES;

1 **(2) PROCEDURES THAT GOVERN THE USE AND MAINTENANCE OF**
2 **PERSONAL PROTECTIVE EQUIPMENT;**

3 **(3) WORK HOURS AND SHIFTS THAT WOULD TAKE EFFECT DURING**
4 **THE CATASTROPHIC HEALTH EMERGENCY;**

5 **(4) SANITATION PROCEDURES;**

6 **(5) TELEWORKING CAPABILITIES, IF APPLICABLE;**

7 **(6) ANY CHANGES IN PAY AND BENEFITS; AND**

8 **(7) MECHANISMS FOR NOTIFYING ESSENTIAL WORKERS OF POSITIVE**
9 **TEST RESULTS FOR ILLNESS.**

10 **(C) EACH ESSENTIAL EMPLOYER SHALL:**

11 **(1) DISPLAY THE MOST RECENT HEALTH EMERGENCY**
12 **PREPAREDNESS PLAN IN A COMMON AREA WHERE IT IS VISIBLE TO ALL ESSENTIAL**
13 **WORKERS; AND**

14 **(2) ON OR BEFORE DECEMBER 31 EACH YEAR, SUBMIT THE HEALTH**
15 **EMERGENCY PREPAREDNESS PLAN TO THE MARYLAND EMERGENCY MANAGEMENT**
16 **AGENCY AND THE EMERGENCY MANAGEMENT DIRECTOR FOR EACH COUNTY IN**
17 **WHICH THE ESSENTIAL EMPLOYER HAS AN OFFICE LOCATION.**

18 **3-1607.**

19 **(A) DURING AN EMERGENCY, IF AN ESSENTIAL WORKER OR ANY OTHER**
20 **WORKER HAS CONTRACTED AN INFECTIOUS DISEASE AT A WORKSITE, THE**
21 **ESSENTIAL EMPLOYER SHALL TAKE PROACTIVE STEPS TO MINIMIZE THE RISK OF**
22 **TRANSMISSION, INCLUDING:**

23 **(1) INFORMING ESSENTIAL WORKERS THAT THEY MAY HAVE BEEN**
24 **EXPOSED; AND**

25 **(2) EVACUATING THE WORKSITE UNTIL IT HAS BEEN PROPERLY**
26 **SANITIZED.**

27 **(B) IF AN ESSENTIAL WORKER'S HEALTH INSURANCE COVERAGE OR OTHER**
28 **BENEFITS DO NOT COVER THE COST OF TESTING FOR A CONTAGIOUS ILLNESS OR**

1 DISEASE, DURING AN EMERGENCY, THE ESSENTIAL EMPLOYER SHALL PAY ALL
2 COSTS ASSOCIATED WITH THAT TESTING.

3 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, EACH
4 ESSENTIAL EMPLOYER SHALL REPORT ALL POSITIVE TEST RESULTS TO THE
5 MARYLAND DEPARTMENT OF HEALTH.

6 (2) WHEN REPORTING TO THE MARYLAND DEPARTMENT OF
7 HEALTH, THE ESSENTIAL EMPLOYER SHALL:

8 (I) INCLUDE DEMOGRAPHIC INFORMATION ABOUT THE
9 ESSENTIAL WORKER; AND

10 (II) REDACT ANY PERSONAL IDENTIFYING INFORMATION TO
11 PROTECT THE IDENTITY OF THE ESSENTIAL WORKER.

12 (D) THE MARYLAND DEPARTMENT OF HEALTH SHALL COLLECT POSITIVE
13 TEST RESULTS, CATEGORIZE THE RESULTS BY INDUSTRY, AND PUBLISH THE
14 RESULTS IN A FORMAT THAT IS READILY ACCESSIBLE TO THE GENERAL PUBLIC.

15 (E) THE COMMISSIONER SHALL ADOPT REGULATIONS AS NECESSARY TO
16 CARRY OUT THIS SECTION.

17 3-1608.

18 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
19 INDICATED.

20 (2) "BEREAVEMENT LEAVE" MEANS PAID LEAVE THAT AN ESSENTIAL
21 EMPLOYER PROVIDES TO AN ESSENTIAL WORKER DURING AN EMERGENCY DUE TO
22 THE DEATH OF A FAMILY MEMBER THAT RESULTED FROM THE EMERGENCY.

23 (3) "FAMILY MEMBER" MEANS:

24 (I) A BIOLOGICAL CHILD, AN ADOPTED CHILD, A FOSTER
25 CHILD, OR A STEPCHILD OF THE ESSENTIAL WORKER;

26 (II) A CHILD FOR WHOM THE ESSENTIAL WORKER HAS LEGAL OR
27 PHYSICAL CUSTODY OR GUARDIANSHIP;

28 (III) A CHILD FOR WHOM THE ESSENTIAL WORKER STANDS IN
29 LOCO PARENTIS, REGARDLESS OF THE CHILD'S AGE;

(IV) A BIOLOGICAL PARENT, AN ADOPTIVE PARENT, A FOSTER PARENT, OR A STEPPARENT OF THE ESSENTIAL WORKER OR OF THE ESSENTIAL WORKER'S SPOUSE;

(V) THE LEGAL GUARDIAN OR WARD OF THE ESSENTIAL WORKER OR OF THE ESSENTIAL WORKER'S SPOUSE;

(VI) AN INDIVIDUAL WHO ACTED AS A PARENT OR STOOD IN LOCO PARENTIS TO THE ESSENTIAL WORKER OR THE ESSENTIAL WORKER'S SPOUSE WHEN THE ESSENTIAL WORKER OR THE ESSENTIAL WORKER'S SPOUSE WAS A MINOR;

(VII) THE SPOUSE OF THE ESSENTIAL WORKER;

(VIII) A BIOLOGICAL GRANDPARENT, AN ADOPTED GRANDPARENT, A FOSTER GRANDPARENT, OR A STEPGRANDPARENT OF THE ESSENTIAL WORKER;

(IX) A BIOLOGICAL GRANDCHILD, AN ADOPTED GRANDCHILD, A FOSTER GRANDCHILD, OR A STEPGRANDCHILD OF THE ESSENTIAL WORKER; OR

(X) A BIOLOGICAL SIBLING, AN ADOPTED SIBLING, A FOSTER SIBLING, OR A STEPSIBLING OF THE ESSENTIAL WORKER.

(4) "HEALTH LEAVE" MEANS PAID LEAVE THAT AN ESSENTIAL EMPLOYER PROVIDES TO AN ESSENTIAL WORKER DURING AN EMERGENCY DUE TO THE ESSENTIAL WORKER'S ILLNESS OR OTHER HEALTH NEEDS RELATED TO THE EMERGENCY.

(B) EACH ESSENTIAL EMPLOYER SHALL PROVIDE AN ESSENTIAL WORKER WITH AT LEAST:

(1) 3 DAYS OF BEREAVEMENT LEAVE; AND

(2) 14 DAYS OF HEALTH LEAVE.

(C) THIS SECTION MAY NOT BE CONSTRUED TO:

(1) REQUIRE AN ESSENTIAL EMPLOYER TO ALLOW AN ESSENTIAL WORKER TO TAKE LEAVE UNDER SUBSECTION (B) OF THIS SECTION CONSECUTIVELY WITH EARNED SICK AND SAFE LEAVE UNDER SUBTITLE 13 OF THIS TITLE; OR

(2) PROHIBIT AN ESSENTIAL EMPLOYER FROM PROVIDING ADDITIONAL BEREAVEMENT LEAVE, HEALTH LEAVE, OR ANY OTHER TYPE OF LEAVE.

3-1609.

(A) (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH AND SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, DURING AN EMERGENCY, EACH ESSENTIAL EMPLOYER SHALL PROVIDE AN ESSENTIAL WORKER WITH HAZARD PAY FOR EACH PAY PERIOD THAT THE ESSENTIAL WORKER WORKS, AT THE REGULAR INTERVAL IN WHICH THE ESSENTIAL WORKER IS PAID.

(II) AN ESSENTIAL EMPLOYER IS NOT REQUIRED TO PROVIDE AN ESSENTIAL WORKER WITH HAZARD PAY IF THE ESSENTIAL EMPLOYER EARNS \$100,000 OR MORE PER YEAR.

(III) THE AMOUNT OF HAZARD PAY PROVIDED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE IN THE AMOUNT OF \$3.00 PER HOUR, UNLESS A COLLECTIVE BARGAINING AGREEMENT OR SIMILAR AGREEMENT PROVIDES FOR A HIGHER AMOUNT.

(2) AN ESSENTIAL WORKER IS ELIGIBLE FOR HAZARD PAY DATING BACK TO THE START OF THE EMERGENCY.

(3) AN ESSENTIAL EMPLOYER MAY NOT LOWER AN ESSENTIAL WORKER'S REGULAR RATE OF PAY TO ACCOMMODATE THE HAZARD PAY.

(4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, HAZARD PAY MAY NOT BE COUNTED TOWARDS AN ESSENTIAL WORKER'S ELIGIBILITY FOR ANY STATE MEANS-TESTED BENEFIT PROGRAMS.

(B) (1) DURING AN EMERGENCY, EACH ESSENTIAL EMPLOYER SHALL PROVIDE FINANCIAL ASSISTANCE FOR UNREIMBURSED HEALTH CARE COSTS TO EACH ESSENTIAL WORKER WHO BECOMES SICK OR IS INJURED IF THE SICKNESS OR INJURY IS RELATED TO THE EMERGENCY.

(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, EACH ESSENTIAL EMPLOYER SHALL SATISFY THE REQUIREMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR ESSENTIAL WORKERS WHO HAVE HEALTH INSURANCE COVERAGE BY REIMBURSING OR PAYING ANY CO-PAYS, INSURANCE PREMIUMS, OUT-OF-POCKET COSTS OF MEDICAL COVERAGE, OR OUT-OF-POCKET TRANSPORTATION COSTS INCURRED OR PAID BY THE ESSENTIAL WORKER.

(II) IF AN ESSENTIAL WORKER IS RECEIVING MEDICAL BENEFITS UNDER THE MARYLAND WORKERS' COMPENSATION ACT, THE ESSENTIAL EMPLOYER SHALL BE CONSIDERED TO HAVE SATISFIED THE REQUIREMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION WITH REGARD TO THAT ESSENTIAL WORKER.

(3) EACH ESSENTIAL EMPLOYER SHALL SATISFY THE REQUIREMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR ESSENTIAL WORKERS WHO DO NOT HAVE HEALTH INSURANCE COVERAGE BY ASSISTING THE ESSENTIAL WORKER IN OBTAINING AND PAYING FOR HEALTH INSURANCE COVERAGE, SUCH AS THROUGH COVERAGE OBTAINED THROUGH THE MARYLAND HEALTH BENEFIT EXCHANGE DURING A SPECIAL ENROLLMENT PERIOD INITIATED AS A RESULT OF THE EMERGENCY.

(4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, FINANCIAL ASSISTANCE PROVIDED FOR HEALTH CARE COSTS MAY NOT BE COUNTED TOWARDS AN ESSENTIAL WORKER'S ELIGIBILITY FOR ANY STATE MEANS-TESTED BENEFIT PROGRAMS.

3-1610.

AN ESSENTIAL EMPLOYER MAY NOT INTENTIONALLY OR UNINTENTIONALLY MISCLASSIFY AN ESSENTIAL WORKER AS AN INDEPENDENT CONTRACTOR OR OTHER CLASSIFICATION IN ORDER TO AVOID PAYING AN ESSENTIAL WORKER THE HAZARD PAY REQUIRED UNDER § 13-1609 OF THIS SUBTITLE OR ANY OTHER BENEFITS DUE DURING AN EMERGENCY UNDER THIS SUBTITLE.

3-1611.

(A) (1) A PERSON THAT ALLEGES A VIOLATION OF THIS SUBTITLE MAY FILE A COMPLAINT WITH THE COMMISSIONER WITHIN 2 YEARS AFTER THE DATE THE PERSON KNEW OR SHOULD HAVE KNOWN OF THE ALLEGED VIOLATION.

(2) ON RECEIVING A COMPLAINT, THE COMMISSIONER SHALL INVESTIGATE THE COMPLAINT.

(3) THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE MAY OPEN AN INVESTIGATION ON THE COMMISSIONER'S OWN INITIATIVE.

(4) AN ESSENTIAL EMPLOYER THAT IS UNDER INVESTIGATION SHALL COMPLY WITH ANY REQUESTS FROM THE COMMISSIONER TO PROVIDE EVIDENCE OR INFORMATION AS A PART OF THE INVESTIGATION.

1 **(5) (I) THE COMMISSIONER SHALL KEEP THE IDENTITY OF A**
2 **COMPLAINANT CONFIDENTIAL UNLESS DISCLOSURE IS NECESSARY TO RESOLVE**
3 **THE INVESTIGATION OR IS OTHERWISE REQUIRED BY LAW.**

4 **(II) TO THE EXTENT PRACTICABLE, BEFORE DISCLOSING A**
5 **COMPLAINANT'S IDENTITY, THE COMMISSIONER SHALL NOTIFY THE COMPLAINANT**
6 **OF THE NEED TO DISCLOSE.**

7 **(B) IF THE COMMISSIONER DETERMINES THAT AN ESSENTIAL EMPLOYER**
8 **HAS VIOLATED THIS SUBTITLE, THE COMMISSIONER:**

9 **(1) SHALL ISSUE AN ORDER COMPELLING COMPLIANCE; AND**

10 **(2) MAY:**

11 **(I) IMPOSE A CIVIL PENALTY OF NOT MORE THAN \$1,000; AND**

12 **(II) GRANT AN ESSENTIAL WORKER CURRENTLY OR FORMERLY**
13 **EMPLOYED BY THE ESSENTIAL EMPLOYER:**

14 **1. COMPENSATORY DAMAGES AND ANY OTHER RELIEF**
15 **NECESSARY TO MAKE THE INDIVIDUAL WHOLE;**

16 **2. RESCISSION OF ANY DISCIPLINE ISSUED IN**
17 **VIOLATION OF THIS SUBTITLE;**

18 **3. REINSTATEMENT OF AN ESSENTIAL WORKER**
19 **TERMINATED IN VIOLATION OF THIS SUBTITLE;**

20 **4. PAYMENT OF BACK PAY FOR ANY LOSS OF PAY OR**
21 **BENEFITS RESULTING FROM RETALIATION OR OTHER ADVERSE ACTION; AND**

22 **5. REASONABLE ATTORNEY'S FEES.**

23 **(C) (1) FOR EACH VIOLATION, THE RELIEF AUTHORIZED UNDER THIS**
24 **SECTION SHALL BE IMPOSED ON A PER-ESSENTIAL WORKER AND PER-INSTANCE**
25 **BASIS.**

26 **(2) IN DETERMINING THE AMOUNT OF A CIVIL PENALTY, THE**
27 **COMMISSIONER SHALL CONSIDER:**

28 **(I) THE GRAVITY OF THE VIOLATION;**

(II) THE SIZE OF THE EMPLOYER'S BUSINESS;

(III) THE EMPLOYER'S GOOD FAITH; AND

(IV) THE EMPLOYER'S HISTORY OF VIOLATIONS UNDER THE
SECTION.

(3) IF THE COMMISSIONER ASSESSES A PENALTY UNDER PARAGRAPH
(1) OF THIS SUBSECTION, THE PENALTY SHALL BE SUBJECT TO THE NOTICE AND
HEARING REQUIREMENTS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT
ARTICLE.

3-1612.

THIS SUBTITLE MAY BE CITED AS THE MARYLAND ESSENTIAL WORKERS'
PROTECTION ACT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
apply only prospectively and may not be applied or interpreted to require the payment of
hazard pay for work performed in an emergency before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
measure, is necessary for the immediate preservation of the public health or safety, has
been passed by a ye and nay vote supported by three-fifths of all the members elected to
each of the two Houses of the General Assembly, and shall take effect from the date it is
enacted.