

SENATE BILL 107

K3
SB 62/20 – FIN

(PRE-FILED)

1lr1179
CF HB 685

By: **Senator Hayes**

Requested: October 28, 2020

Introduced and read first time: January 13, 2021

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: February 23, 2021

CHAPTER _____

1 AN ACT concerning

2 **Labor and Employment – Secure Maryland Wage Act**

3 FOR the purpose of requiring that certain employees working at a Maryland heightened
4 security interest location be paid a certain wage ~~or combination of certain wages or~~
5 ~~benefits for certain time periods~~ under certain circumstances; requiring certain
6 employers to pay certain covered employees a certain supplement benefit rate in a
7 certain manner beginning on a certain date; declaring findings of the General
8 Assembly; specifying the purposes of certain provisions of this Act; specifying that
9 certain provisions of this Act do not diminish certain rights of certain covered
10 employees; requiring an employer to pay certain covered employees an overtime
11 wage under certain circumstances; specifying that a certain agreement to work for
12 less than a certain wage is void; prohibiting an employer from including a tip credit
13 as part of the wage of certain covered employees; requiring an employer to allow
14 certain covered employees to receive tips and retain all tips received; requiring and
15 authorizing the Commissioner of Labor and Industry to create and make available
16 certain materials for certain employers; requiring the Commissioner to provide
17 certain materials to certain employers under certain circumstances; requiring an
18 employer to keep posted in each place of employment certain materials in a certain
19 manner; requiring employers to keep certain records for a certain period of time;
20 requiring the Commissioner to take certain enforcement actions; providing for the
21 confidentiality of certain records and statements; authorizing a certain person to file
22 a complaint in circuit court within a certain time period under certain circumstances;
23 requiring that a certain complaint be served on the Commissioner; requiring the
24 court to make a certain determination under certain circumstances; authorizing

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



certain employees to bring a certain action under certain circumstances; authorizing the Commissioner to take certain actions regarding certain claims under certain circumstances; providing that a certain agreement is not a defense for certain purposes; requiring a court to make certain awards to certain employees under certain circumstances; prohibiting certain employers and employees from taking certain actions; establishing a certain penalty; prohibiting a certain conviction of a certain employer except under certain circumstances; requiring the Commissioner to enforce certain provisions of law; authorizing the Commissioner to conduct a certain investigation under certain circumstances; establishing an exemption under the Wage and Hour Law for a certain covered employee; establishing an exemption under the Living Wage Law for a certain covered employee; requiring the Port of Baltimore to conduct a certain study and report to the Governor and the General Assembly on or before a certain date; requiring the Maryland Aviation Administration to conduct a certain study and report to the Governor and the General Assembly on or before a certain date; providing for the application of certain provisions of this Act; defining certain terms; and generally relating to wages paid at heightened security interest locations.

BY repealing and reenacting, with amendments,

Article – Labor and Employment

Section 3–102 ~~and~~ 3–403(13) and (14), and 3–419

Annotated Code of Maryland

(2016 Replacement Volume and 2020 Supplement)

BY adding to

Article – Labor and Employment

Section 3–103(m) and 3–403(15); and ~~3–1501~~ 3–1601 through ~~3–1511~~ 3–1611 to be under the new subtitle “Subtitle ~~15~~ 16. Secure Maryland Wage Act”

Annotated Code of Maryland

(2016 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement

Section 18–102

Annotated Code of Maryland

(2015 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 – Labor and Employment

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; [and]

(5) **ENFORCE SUBTITLE ~~15~~ 16 OF THIS TITLE; AND**

(6) enforce a local minimum wage law.

(b) If the Governor declares an emergency or disaster, then, with the consent of the Governor, the Commissioner may suspend enforcement of any provision of Subtitle 2 of this title until the emergency or disaster ends.

(c) The Commissioner has the same powers and duties in enforcing a local minimum wage law as the Commissioner has in enforcing Subtitle 4 of this title.

3–103.

(M) THE COMMISSIONER MAY CONDUCT AN INVESTIGATION TO DETERMINE WHETHER SUBTITLE ~~15~~ 16 OF THIS TITLE HAS BEEN VIOLATED ON RECEIPT OF A WRITTEN COMPLAINT BY AN EMPLOYEE.

3–403.

This subtitle does not apply to an individual who:

(13) is engaged principally in the range production of livestock; [or]

(14) is employed as a hand–harvest laborer and is paid on a piece–rate basis in an operation that, in the region of employment, has been and customarily and generally is recognized as having been paid on that basis, if:

(i) the individual:

1. commutes daily from the permanent residence of the individual to the farm where the individual is employed; and

2. during the preceding calendar year, was employed in agriculture less than 13 weeks; or

(ii) the individual:

1. is under the age of 17;

2. is employed on the same farm as a parent of the individual or a person standing in the place of the parent; and

3. is paid at the same rate that an employee who is at least 17 years old is paid on the same farm; **OR**

(15) IS A COVERED EMPLOYEE UNDER THE SECURE MARYLAND WAGE ACT.

3-419.

(a) (1) [This] EXCEPT AS PROVIDED IN § 3-1604(D) OF THIS TITLE, THIS section applies to each employee who:

(i) is engaged in an occupation in which the employee customarily and regularly receives more than \$30 each month in tips;

(ii) has been informed by the employer about the provisions of this section; and

(iii) has kept all of the tips that the employee received.

(2) Notwithstanding paragraph (1)(iii) of this subsection, this section does not prohibit the pooling of tips.

(b) Subject to the limitations in this section, an employer may include, as part of the wage of an employee to whom this section applies:

(1) an amount that the employer sets to represent the tips of the employee; or

(2) if the employee or representative of the employee satisfies the Commissioner that the employee received a lesser amount in tips, the lesser amount.

(c) The tip credit amount that the employer may include under subsection (b) of this section may not exceed the minimum wage established under § 3-413 of this subtitle for the employee less \$3.63.

(d) (1) The Commissioner shall adopt regulations, in consultation with payroll service providers and restaurant industry trade group representatives, to require restaurant employers that include a tip credit as part of the wage of an employee to provide tipped employees with a written or electronic wage statement for each pay period that shows the effective hourly tip rate as derived from employer-paid cash wages plus all reported tips for tip credit hours worked each workweek of the pay period.

(2) The Commissioner shall provide notification of the tip credit wage statement regulations on the Department's website.

1 SUBTITLE ~~15~~ 16. SECURE MARYLAND WAGE ACT.

2 ~~3-1501.~~ 3-1601.

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

5 (B) (1) “COVERED EMPLOYEE” MEANS ANY INDIVIDUAL EMPLOYED TO
6 PERFORM WORK AT A HEIGHTENED SECURITY INTEREST LOCATION WHO IS A
7 NONEXEMPT EMPLOYEE AS DESCRIBED IN THE FEDERAL FAIR LABOR STANDARDS
8 ACT.

9 (2) “COVERED EMPLOYEE” DOES NOT INCLUDE AN INDIVIDUAL
10 EMPLOYED TO PERFORM WORK AT A HEIGHTENED SECURITY INTEREST LOCATION
11 BY:

12 (I) A RETAIL ESTABLISHMENT AS DEFINED IN § 3-710 OF THIS
13 TITLE;

14 (II) A FOOD SERVICE FACILITY AS DEFINED IN § 21-301 OF THE
15 HEALTH – GENERAL ARTICLE; OR

16 (III) AN ON-AIRPORT OR OFF-AIRPORT MOTOR VEHICLE RENTAL
17 COMPANY, OR ANY OTHER COMPANY INVOLVED IN MOTOR VEHICLE RENTAL
18 OPERATIONS.

19 (C) (1) “EMPLOY” MEANS TO ENGAGE AN INDIVIDUAL TO WORK.

20 (2) “EMPLOY” INCLUDES:

21 (I) ALLOWING AN INDIVIDUAL TO WORK; AND

22 (II) INSTRUCTING AN INDIVIDUAL TO BE PRESENT AT A WORK
23 SITE.

24 (D) (1) “EMPLOYER” INCLUDES A PERSON WHO ACTS DIRECTLY OR
25 INDIRECTLY IN THE INTEREST OF ANOTHER EMPLOYER WITH AN EMPLOYEE.

26 (2) “EMPLOYER” DOES NOT INCLUDE AN EMPLOYER THAT PROVIDES
27 CONSTRUCTION SERVICES AS DEFINED IN § 3-901 OF THIS TITLE.

28 (E) “HEIGHTENED SECURITY INTEREST LOCATION” MEANS:

(1) BALTIMORE–WASHINGTON INTERNATIONAL THURGOOD
MARSHALL AIRPORT; OR

(2) PENNSYLVANIA STATION IN BALTIMORE; ~~OR~~

~~(3) THE PORT OF BALTIMORE.~~

(F) “WAGE” MEANS ALL COMPENSATION THAT IS DUE TO AN EMPLOYEE FOR
EMPLOYMENT.

~~3-1502.~~ 3-1602.

(A) THE GENERAL ASSEMBLY FINDS THAT:

(1) LOW WAGES OF EMPLOYEES AT A HEIGHTENED SECURITY
INTEREST LOCATION CAN BE A SUBSTANTIAL FACTOR IN THE INABILITY OF THESE
LOCATIONS TO ATTRACT OR RETAIN EXPERIENCED AND TRAINED EMPLOYEES; AND

(2) HIGH TURNOVER RATES AND INEXPERIENCE OF MANY
EMPLOYEES AT A HEIGHTENED SECURITY INTEREST LOCATION THAT RESULT FROM
LOW WAGES CAN HINDER THE ABILITY OF THE EMPLOYEES TO RESPOND TO
EMERGENCY SITUATIONS AND PUT AT RISK THE SAFETY, SECURITY, AND WELFARE
OF THE RESIDENTS OF THE STATE.

(B) THE PURPOSE OF THIS SUBTITLE IS TO SET A HIGHER WAGE STANDARD
FOR EMPLOYEES WORKING AT A HEIGHTENED SECURITY INTEREST LOCATION TO
PROMOTE THE SAFETY, SECURITY, AND WELFARE OF THE RESIDENTS OF THE STATE
BY:

(1) ENSURING THAT EMPLOYERS AT A HEIGHTENED SECURITY
INTEREST LOCATION CAN ATTRACT AND RETAIN EXPERIENCED AND TRAINED
WORKERS;

(2) INCREASING EMPLOYEE PREPAREDNESS AND IMPROVING THE
ABILITY OF EMPLOYEES TO ASSIST IN EMERGENCY RESPONSES AND EVACUATIONS;

(3) SAFEGUARDING EMPLOYERS AND EMPLOYEES AGAINST UNFAIR
COMPETITION THAT COMPROMISES SAFETY;

(4) PROVIDING A MAINTENANCE LEVEL THAT INCREASES EMPLOYEE
EFFICIENCY, GENERAL WELL-BEING, AND HEALTH; AND

(5) PROTECTING THE VITALITY OF A HEIGHTENED SECURITY INTEREST LOCATION THROUGH IMPROVEMENTS TO THE EXPERIENCE, TRAINING, AND EFFICACY OF EMPLOYEES IN TERMS OF SAFETY AND SECURITY.

~~3-1503.~~ 3-1603.

(A) THIS SUBTITLE APPLIES TO A COVERED EMPLOYEE OF AN EMPLOYER ONLY IF AT LEAST 50% OF THE COVERED EMPLOYEE'S TIME DURING ANY WORKWEEK IS PERFORMED AT A HEIGHTENED SECURITY INTEREST LOCATION.

(B) THIS SUBTITLE DOES NOT DIMINISH:

(1) THE RIGHT OF COVERED EMPLOYEES TO BARGAIN COLLECTIVELY WITH THEIR EMPLOYERS THROUGH REPRESENTATIVES WHOM THE COVERED EMPLOYEES CHOOSE TO ESTABLISH WAGES OR OTHER CONDITIONS OF EMPLOYMENT IN EXCESS OF THE APPLICABLE MINIMUM FOR WAGES UNDER THIS SUBTITLE; OR

(2) A RIGHT OF A COVERED EMPLOYEE THAT IS GRANTED UNDER THE FEDERAL FAIR LABOR STANDARDS ACT.

~~3-1504.~~ 3-1604.

~~(A) (1) FOR THE 12-MONTH PERIOD BEGINNING JANUARY 1, 2022, AND FOR EACH SUBSEQUENT 12-MONTH PERIOD, AN EMPLOYER SHALL PAY A COVERED EMPLOYEE WAGES, OR ANY COMBINATION OF WAGES AND BENEFITS, THAT IS NOT LESS THAN THE COMBINED AMOUNT OF THE WAGE AND FRINGE BENEFIT RATE IN EFFECT ON SEPTEMBER 1 OF THE IMMEDIATELY PRECEDING YEAR FOR THE GUARD I CLASSIFICATION FOR THE APPLICABLE COUNTY ESTABLISHED BY THE UNITED STATES SECRETARY OF LABOR UNDER §§ 6701 THROUGH 6707 OF THE FEDERAL MCNAMARA O'HARA SERVICE CONTRACT ACT OF 1965.~~

~~(2) PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSTRUED TO PROHIBIT AN EMPLOYER FROM BEGINNING TO PAY A COVERED EMPLOYEE THE WAGE RATE IN EFFECT ON SEPTEMBER 1 BEFORE REQUIRED TO UNDER PARAGRAPH (1) OF THIS SUBSECTION~~ AN EMPLOYER SHALL PAY A COVERED EMPLOYEE A WAGE RATE:

(I) FOR THE 12-MONTH PERIOD BEGINNING JANUARY 1, 2022, THAT IS NOT LESS THAN \$13.50 PER HOUR;

(II) FOR THE 12-MONTH PERIOD BEGINNING JANUARY 1, 2023, THAT IS NOT LESS THAN \$14.25 PER HOUR;

(III) FOR THE 12-MONTH PERIOD BEGINNING JANUARY 1, 2024,
THAT IS NOT LESS THAN \$15.00 PER HOUR; AND

(IV) FOR THE 12-MONTH PERIOD BEGINNING JANUARY 1, 2025,
THAT IS NOT LESS THAN \$16.00 PER HOUR.

(2) BEGINNING JANUARY 1, 2026, AN EMPLOYER SHALL PAY A
COVERED EMPLOYEE:

(I) A WAGE RATE THAT IS NOT LESS THAN \$16.00 PER HOUR;
AND

(II) AN ADDITIONAL SUPPLEMENT BENEFIT RATE WITH A VALUE
NOT LESS THAN \$1.00 PER HOUR BY:

1. APPLYING THE FULL SUPPLEMENT BENEFIT TO
ASSIST IN COVERING THE EMPLOYEE'S SHARE OF HEALTH OR OTHER BENEFITS,
EXCLUDING PAID LEAVE;

2. A. APPLYING A PORTION OF THE SUPPLEMENT
BENEFIT TO ASSIST IN COVERING THE EMPLOYEE'S SHARE OF HEALTH OR OTHER
BENEFITS, EXCLUDING PAID LEAVE; AND

B. PAYING THE BALANCE IN CASH; OR

3. PAYING THE ENTIRE SUPPLEMENT BENEFIT IN CASH.

(B) AN EMPLOYER SHALL PAY AN OVERTIME WAGE OF AT LEAST 1.5 TIMES
THE USUAL HOURLY WAGE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION ON
THE BASIS OF EACH HOUR OVER 40 HOURS THAT A COVERED EMPLOYEE WORKS
DURING 1 WORKWEEK.

(C) AN AGREEMENT BETWEEN AN EMPLOYER AND A COVERED EMPLOYEE
TO WORK FOR LESS THAN THE WAGE REQUIRED UNDER THIS SECTION IS VOID.

(D) (1) AN EMPLOYER MAY NOT INCLUDE A TIP CREDIT AMOUNT UNDER
§ 3-419 OF THIS TITLE AS PART OF THE WAGE OF A COVERED EMPLOYEE WHOSE
DUTIES INCLUDE PROVIDING PASSENGERS WITH WHEELCHAIR ASSISTANCE,
INCLUDING A WHEELCHAIR AGENT OR A PASSENGER SERVICE AGENT.

(2) AN EMPLOYER OF A COVERED EMPLOYEE DESCRIBED IN
PARAGRAPH (1) OF THIS SUBSECTION SHALL ALLOW THE COVERED EMPLOYEE TO
RECEIVE TIPS AND RETAIN ALL TIPS RECEIVED.

1 ~~3-1505~~ 3-1605.

2 (A) THE COMMISSIONER:

3 (1) SHALL CREATE AND MAKE AVAILABLE A SUMMARY OF THIS
4 SUBTITLE; AND

5 (2) MAY CREATE AND MAKE AVAILABLE A SUMMARY OF REGULATIONS
6 ADOPTED UNDER THIS SUBTITLE.

7 (B) ON REQUEST OF AN EMPLOYER, THE COMMISSIONER SHALL PROVIDE
8 WITHOUT CHARGE:

9 (1) A COPY OF THIS SUBTITLE;

10 (2) A SUMMARY OF THIS SUBTITLE;

11 (3) A COPY OF REGULATIONS ADOPTED UNDER THIS SUBTITLE; AND

12 (4) IF THE COMMISSIONER HAS DEVELOPED A SUMMARY OF
13 REGULATIONS ADOPTED UNDER THIS SUBTITLE, A SUMMARY OF THE REGULATIONS.

14 (C) EACH EMPLOYER SHALL KEEP POSTED CONSPICUOUSLY IN EACH PLACE
15 OF EMPLOYMENT:

16 (1) A SUMMARY OF THIS SUBTITLE THAT THE COMMISSIONER HAS
17 PROVIDED TO THE EMPLOYER; AND

18 (2) A COPY OR SUMMARY OF REGULATIONS ADOPTED UNDER THIS
19 SUBTITLE.

20 ~~3-1506~~ 3-1606.

21 EACH EMPLOYER SHALL KEEP, FOR AT LEAST 3 YEARS, IN OR ABOUT THE
22 PLACE OF EMPLOYMENT, A RECORD OF:

23 (1) THE NAME, ADDRESS, AND OCCUPATION OF EACH EMPLOYEE;

24 (2) THE RATE OF PAY OF EACH EMPLOYEE;

25 (3) THE AMOUNT THAT IS PAID EACH PAY PERIOD TO EACH
26 EMPLOYEE;

27 (4) THE HOURS THAT EACH EMPLOYEE WORKS EACH DAY AND
28 WORKWEEK; AND

(5) OTHER INFORMATION THAT THE COMMISSIONER REQUIRES, BY REGULATION, AS REASONABLE TO ENFORCE THIS SUBTITLE.

~~3-1507.~~ 3-1607.

(A) THE COMMISSIONER SHALL ENTER A PLACE OF EMPLOYMENT TO:

(1) QUESTION EMPLOYEES TO DETERMINE WHETHER AN EMPLOYER HAS BEEN AND IS COMPLYING WITH THIS SUBTITLE AND REGULATIONS ADOPTED TO CARRY OUT THIS SUBTITLE;

(2) INSPECT AND COPY EACH RECORD THAT AN EMPLOYER KEEPS ON WAGES AND HOURS OF EMPLOYEES; AND

(3) REQUIRE EACH EMPLOYER TO:

(I) ATTEST TO THE TRUTHFULNESS OF EACH RECORD THAT IS COPIED AND TO SIGN THE COPY; OR

(II) AT THE OPTION OF THE EMPLOYER, SUBMIT A COMPLETE WRITTEN STATEMENT ABOUT THE WAGES, HOURS, NAME, AND ADDRESS OF EACH EMPLOYEE, ON FORMS THAT THE COMMISSIONER PROVIDES OR APPROVES.

(B) EACH RECORD OR STATEMENT THAT THE COMMISSIONER OR AN AUTHORIZED REPRESENTATIVE OF THE COMMISSIONER OBTAINS UNDER SUBSECTION (A) OF THIS SECTION IS CONFIDENTIAL AND MAY BE SHOWN ONLY TO THE COMMISSIONER OR A COURT.

~~3-1508.~~ 3-1608.

(A) (1) A PERSON AGGRIEVED BY A REGULATION ADOPTED BY OR AN ORDER TO PAY WAGES ISSUED BY THE COMMISSIONER UNDER THIS SUBTITLE MAY FILE A COMPLAINT IN CIRCUIT COURT WITHIN 60 DAYS AFTER THE DATE OF PUBLICATION OF THE REGULATION OR ORDER TO PAY WAGES TO HAVE IT MODIFIED OR SET ASIDE.

(2) A COPY OF THE COMPLAINT SHALL BE SERVED ON THE COMMISSIONER.

(B) UNLESS THE COURT SPECIFICALLY ORDERS OTHERWISE, THE COMMENCEMENT OF PROCEEDINGS UNDER THIS SECTION MAY NOT OPERATE AS A STAY OF THE REGULATION OR ORDER TO PAY WAGES.

1 (C) (1) THE COURT SHALL DETERMINE WHETHER A REGULATION OR
2 ORDER TO PAY WAGES IS IN ACCORDANCE WITH LAW.

3 (2) IF A FINDING OF FACT IS SUPPORTED BY SUBSTANTIAL EVIDENCE,
4 THE FINDING IS CONCLUSIVE.

5 ~~3-1509.~~ 3-1609.

6 (A) IF AN EMPLOYER PAYS A COVERED EMPLOYEE LESS THAN THE WAGE
7 REQUIRED UNDER THIS SUBTITLE, THE COVERED EMPLOYEE MAY BRING AN ACTION
8 AGAINST THE EMPLOYER TO RECOVER:

9 (1) THE DIFFERENCE BETWEEN THE WAGE PAID TO THE COVERED
10 EMPLOYEE AND THE WAGE REQUIRED UNDER THIS SUBTITLE;

11 (2) AN ADDITIONAL AMOUNT EQUAL TO THE DIFFERENCE BETWEEN
12 THE WAGE PAID TO THE COVERED EMPLOYEE AND THE WAGE REQUIRED UNDER
13 THIS SUBTITLE AS LIQUIDATED DAMAGES; AND

14 (3) COUNSEL FEES AND OTHER COSTS.

15 (B) ON THE WRITTEN REQUEST OF A COVERED EMPLOYEE WHO IS ENTITLED
16 TO BRING AN ACTION UNDER THIS SECTION, THE COMMISSIONER MAY:

17 (1) TAKE AN ASSIGNMENT OF THE CLAIM IN TRUST FOR THE COVERED
18 EMPLOYEE;

19 (2) ASK THE ATTORNEY GENERAL TO BRING AN ACTION IN
20 ACCORDANCE WITH THIS SECTION ON BEHALF OF THE COVERED EMPLOYEE; AND

21 (3) CONSOLIDATE TWO OR MORE CLAIMS AGAINST AN EMPLOYER.

22 (C) THE AGREEMENT OF A COVERED EMPLOYEE TO WORK FOR LESS THAN
23 THE WAGE TO WHICH THE COVERED EMPLOYEE IS ENTITLED UNDER THIS SUBTITLE
24 IS NOT A DEFENSE TO AN ACTION UNDER THIS SECTION.

25 (D) (1) IF A COURT DETERMINES THAT A COVERED EMPLOYEE IS
26 ENTITLED TO RECOVERY IN AN ACTION UNDER THIS SECTION, THE COURT SHALL
27 AWARD TO THE COVERED EMPLOYEE:

28 (I) THE DIFFERENCE BETWEEN THE WAGE PAID TO THE
29 COVERED EMPLOYEE AND THE WAGE REQUIRED UNDER THIS SUBTITLE;

(II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN ADDITIONAL AMOUNT EQUAL TO THE DIFFERENCE BETWEEN THE WAGE PAID TO THE COVERED EMPLOYEE AND THE WAGE REQUIRED UNDER THIS SUBTITLE AS LIQUIDATED DAMAGES; AND

(III) REASONABLE COUNSEL FEES AND OTHER COSTS.

(2) IF AN EMPLOYER SHOWS TO THE SATISFACTION OF THE COURT THAT THE EMPLOYER ACTED IN GOOD FAITH AND REASONABLY BELIEVED THAT THE WAGES PAID TO THE COVERED EMPLOYEE WERE NOT LESS THAN THE WAGE REQUIRED UNDER THIS SUBTITLE, THE COURT SHALL:

(I) DETERMINE THAT LIQUIDATED DAMAGES SHOULD NOT BE AWARDED; OR

(II) AWARD, AS LIQUIDATED DAMAGES, ANY AMOUNT LESS THAN THE AMOUNT SPECIFIED IN PARAGRAPH (1)(II) OF THIS SUBSECTION.

~~3-1510.~~ 3-1610.

(A) IN THIS SECTION, "COMPLAINT" INCLUDES A WRITTEN OR ORAL COMPLAINT, CLAIM, OR ASSERTION OF RIGHT BY A COVERED EMPLOYEE REGARDING THE PAYMENT OF WAGES UNDER THIS SUBTITLE THAT IS MADE TO:

(1) THE EMPLOYER OR A SUPERVISOR, MANAGER, OR FOREMAN EMPLOYED BY THE EMPLOYER WHETHER IT IS MADE THROUGH THE EMPLOYER'S INTERNAL GRIEVANCE PROCESS OR OTHERWISE; OR

(2) THE COMMISSIONER OR AN AUTHORIZED REPRESENTATIVE OF THE COMMISSIONER.

(B) (1) AN EMPLOYER MAY NOT:

(I) PAY OR AGREE TO PAY LESS THAN THE WAGE REQUIRED UNDER THIS SUBTITLE;

(II) HINDER OR DELAY THE COMMISSIONER OR AN AUTHORIZED REPRESENTATIVE OF THE COMMISSIONER IN THE ENFORCEMENT OF THIS SUBTITLE;

(III) TAKE ADVERSE ACTION AGAINST A COVERED EMPLOYEE BECAUSE THE COVERED EMPLOYEE:

1 1. **MAKES A COMPLAINT THAT THE COVERED EMPLOYEE**
2 **HAS NOT BEEN PAID IN ACCORDANCE WITH THIS SUBTITLE;**

3 2. **BRINGS AN ACTION UNDER THIS SUBTITLE OR A**
4 **PROCEEDING THAT RELATES TO THE SUBJECT OF THIS SUBTITLE; OR**

5 3. **HAS TESTIFIED IN AN ACTION UNDER THIS SUBTITLE**
6 **OR A PROCEEDING RELATED TO THE SUBJECT OF THIS SUBTITLE; OR**

7 (IV) **VIOLATE ANY OTHER PROVISION OF THIS SUBTITLE.**

8 (2) **ADVERSE ACTION PROHIBITED UNDER PARAGRAPH (1) OF THIS**
9 **SUBSECTION INCLUDES:**

10 (I) **DISCHARGE;**

11 (II) **DEMOTION;**

12 (III) **THREATENING THE COVERED EMPLOYEE WITH DISCHARGE**
13 **OR DEMOTION; AND**

14 (IV) **ANY OTHER RETALIATORY ACTION THAT RESULTS IN A**
15 **CHANGE TO THE TERMS OR CONDITIONS OF EMPLOYMENT THAT WOULD DISSUADE**
16 **A REASONABLE COVERED EMPLOYEE FROM MAKING A COMPLAINT, BRINGING AN**
17 **ACTION, OR TESTIFYING IN AN ACTION UNDER THIS SUBTITLE.**

18 (C) **A COVERED EMPLOYEE MAY NOT:**

19 (1) **MAKE A GROUNDLESS OR MALICIOUS COMPLAINT TO THE**
20 **COMMISSIONER OR AN AUTHORIZED REPRESENTATIVE OF THE COMMISSIONER;**

21 (2) **IN BAD FAITH, BRING AN ACTION UNDER THIS SUBTITLE OR A**
22 **PROCEEDING RELATED TO THE SUBJECT OF THIS SUBTITLE; OR**

23 (3) **IN BAD FAITH, TESTIFY IN AN ACTION UNDER THIS SUBTITLE OR A**
24 **PROCEEDING RELATED TO THE SUBJECT OF THIS SUBTITLE.**

25 (D) **A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION IS GUILTY**
26 **OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING**
27 **\$1,000.**

28 (E) **AN EMPLOYER MAY NOT BE CONVICTED UNDER THIS SECTION UNLESS**
29 **THE EVIDENCE DEMONSTRATES THAT THE EMPLOYER HAD KNOWLEDGE OF THE**

1 **RELEVANT COMPLAINT, TESTIMONY, OR ACTION FOR WHICH THE PROSECUTION FOR**
2 **RETALIATION IS SOUGHT.**

3 ~~3-1511. 3-1611.~~

4 **THIS SUBTITLE MAY BE CITED AS THE SECURE MARYLAND WAGE ACT.**

5 **Article – State Finance and Procurement**

6 18–102.

7 (a) (1) This title applies to an employee of an employer for the duration of a
8 contract subject to this title if at least one-half of the employee’s time during any workweek
9 relates to a State contract for services or a subcontract for services under a State contract.

10 (2) This title does not apply to an employee of an employer if the employee:

11 (i) is 17 years of age or younger for the duration of a contract subject
12 to this title; or

13 (ii) works less than 13 consecutive weeks for the duration of a
14 contract subject to this title and during that period works full time.

15 (b) (1) This title does not apply to a contract:

16 [(1)] (I) for services needed immediately to prevent or respond to an
17 imminent threat to public health or safety;

18 [(2)] (II) with a public service company;

19 [(3)] (III) with a nonprofit organization;

20 [(4)] (IV) between units; or

21 [(5)] (V) between a unit and a county or Baltimore City.

22 (2) **THIS TITLE DOES NOT APPLY TO A COVERED EMPLOYEE UNDER**
23 **THE SECURE MARYLAND WAGE ACT.**

24 (c) If the unit responsible for a State contract determines that application of this
25 title would conflict with any applicable federal program requirement, this title does not
26 apply to the contract or program.

27 (d) The head of the unit responsible for a State contract subject to this title shall
28 determine if contract services valued at 50% or more of the total value of the contract will

be performed in the Tier 1 area or the Tier 2 area and shall provide that determination on the invitation for a bid.

SECTION 2. AND BE IT FURTHER ENACTED, That the Port of Baltimore shall:

(1) compare wage rates and benefit rates of employees, by employee category or job classification, working at the Port of Baltimore with the wage rates and benefit rates of employees working at the Norfolk International Terminals of the Port of Virginia and at the Port of Philadelphia; and

(2) on or before January 1, 2022, report its findings to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly.

SECTION 3. AND BE IT FURTHER ENACTED, That the Maryland Aviation Administration shall:

~~(1) study the difference between the wage rates and benefit rates for covered employees under § 3-1604(a) of the Labor and Employment Article, as enacted by Section 1 of this Act, and the wage rates and benefit rates paid to employees of:~~

~~(i) retail establishments located at BWI Thurgood Marshall Airport;~~

~~(ii) food service facilities located at BWI Thurgood Marshall Airport;~~

and

~~(iii) on-airport or off-airport motor vehicle rental companies, or any other company involved in motor vehicle rental operations that serve BWI Thurgood Marshall~~ compare wage and benefit rates for all employees working at the Baltimore-Washington International Thurgood Marshall Airport, by employee category, job classification, and employment sector, with the wage and benefit rates for employees working at Ronald Reagan Washington National Airport and Dulles International Airport; and

(2) on or before January 1, 2022, report its findings to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.