

HOUSE BILL 1330

K3, P2

11r0173

By: **Chair, Economic Matters Committee (By Request – Departmental – Labor, Licensing and Regulation)**

Introduced and read first time: March 7, 2011

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Construction Safety and Health Training – Public Work Contracts**

3 FOR the purpose of requiring certain individuals performing work on certain public
4 work projects to complete certain construction safety training; requiring certain
5 contractors, before beginning work on a public work contract, to provide a
6 certification to a public body that certain individuals have received construction
7 safety training; requiring the Commissioner of Labor and Industry to
8 investigate compliance with the training requirement; requiring a public body
9 to withhold certain liquidated damages to cover the liability of a contractor if
10 notified by the Commissioner of Labor and Industry of a violation; providing for
11 a hearing after completion of an investigation; providing for the imposition of
12 liquidated damages of certain amounts for certain violations; providing for
13 debarment of certain contractors under certain circumstances; authorizing the
14 Commissioner to adopt certain regulations; defining certain terms; and
15 generally relating to construction safety training.

16 BY adding to

17 Article – State Finance and Procurement

18 Section 17–701 through 17–708 to be under the new subtitle “Subtitle 7.
19 Construction Safety and Health Training”

20 Annotated Code of Maryland

21 (2009 Replacement Volume and 2010 Supplement)

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

24 **Article – State Finance and Procurement**

25 **SUBTITLE 7. CONSTRUCTION SAFETY AND HEALTH TRAINING.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **17-701.**

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

4 (B) "COMMISSIONER" MEANS THE COMMISSIONER OF LABOR AND
5 INDUSTRY.

6 (C) "CONSTRUCTION" HAS THE MEANING STATED IN § 17-201(D) OF
7 THIS TITLE.

8 (D) "CONSTRUCTION SAFETY TRAINING" MEANS A LIVE PROGRAM OR
9 COURSE OF CONSTRUCTION SAFETY TRAINING THAT CONFORMS TO THE
10 10-HOUR CONSTRUCTION INDUSTRY SAFETY OUTREACH TRAINING PROGRAM
11 ESTABLISHED BY THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
12 OF THE UNITED STATES DEPARTMENT OF LABOR.

13 (E) "FALSE STATEMENT" MEANS A STATEMENT THAT IS
14 INTENTIONALLY FALSE OR MADE WITH RECKLESS DISREGARD FOR TRUTH OR
15 ACCURACY.

16 (F) "KNOWINGLY" MEANS ACTUAL KNOWLEDGE, DELIBERATE
17 IGNORANCE, OR RECKLESS DISREGARD FOR THE TRUTH.

18 (G) "PUBLIC BODY" HAS THE MEANING STATED IN § 17-201(I) OF THIS
19 TITLE.

20 (H) "PUBLIC WORK" HAS THE MEANING STATED IN § 17-201(J) OF THIS
21 TITLE.

22 (I) "PUBLIC WORK CONTRACT" HAS THE MEANING STATED IN §
23 17-201(K) OF THIS TITLE.

24 **17-702.**

25 THIS SUBTITLE APPLIES ONLY TO WORK PERFORMED ON A PUBLIC WORK
26 CONTRACT AS PROVIDED FOR IN § 17-202 OF THIS TITLE.

27 **17-703.**

28 A CONTRACTOR ON A PUBLIC WORK CONTRACT SHALL:

29 (1) ENSURE THAT ALL INDIVIDUALS PERFORMING MANUAL WORK
30 AT THE JOB SITE UNDER THE PUBLIC WORK CONTRACT HAVE SUCCESSFULLY

1 COMPLETED CONSTRUCTION SAFETY TRAINING OR WILL HAVE SUCCESSFULLY
2 COMPLETED THE TRAINING BEFORE WORKING ON THE CONTRACT;

3 (2) ENSURE THAT THE CONSTRUCTION SAFETY TRAINING
4 REQUIRED BY THIS SECTION IS ADMINISTERED BY AN ENTITY AUTHORIZED TO
5 PROVIDE THE TRAINING BY THE OCCUPATIONAL SAFETY AND HEALTH
6 ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF LABOR; AND

7 (3) CONFIRM THAT EACH INDIVIDUAL PERFORMING WORK AT THE
8 JOB SITE UNDER THE PUBLIC WORK CONTRACT HAS COMPLETED THE
9 CONSTRUCTION SAFETY TRAINING COURSE WITHIN THE PAST 5 YEARS.

10 17-704.

11 (A) BEFORE BEGINNING WORK ON A PUBLIC WORK CONTRACT, A
12 CONTRACTOR SHALL SUBMIT A CERTIFICATION OF COMPLETION OF
13 CONSTRUCTION SAFETY TRAINING COURSE TO THE PUBLIC BODY RESPONSIBLE
14 FOR THE CONTRACT ATTESTING THAT ALL INDIVIDUALS WORKING ON THE SITE,
15 INCLUDING SUBCONTRACTORS, MEET OR WILL MEET THE SAFETY
16 QUALIFICATIONS REQUIRED UNDER § 17-703 OF THIS SUBTITLE.

17 (B) (1) A CONTRACTOR SHALL MAINTAIN PROOF OF COMPLETION OF
18 THE CONSTRUCTION SAFETY TRAINING COURSE AS REQUIRED BY THIS SECTION
19 UNTIL THE PUBLIC WORK CONTRACT IS COMPLETED.

20 (2) THE COMMISSIONER MAY REQUIRE A CONTRACTOR OR
21 SUBCONTRACTOR TO SUBMIT PROOF OF COMPLIANCE WITH THIS SECTION ON
22 REQUEST.

23 17-705.

24 (A) THE COMMISSIONER SHALL INVESTIGATE AS NECESSARY TO
25 DETERMINE COMPLIANCE WITH THIS SUBTITLE AND REGULATIONS ADOPTED
26 UNDER THIS SUBTITLE.

27 (B) IF, AFTER INVESTIGATION, THE COMMISSIONER DETERMINES THAT
28 A CONTRACTOR OR SUBCONTRACTOR HAS VIOLATED THIS SUBTITLE OR A
29 REGULATION ADOPTED UNDER THIS SUBTITLE, THE COMMISSIONER PROMPTLY
30 SHALL NOTIFY THE PUBLIC BODY.

31 (C) (1) ON NOTIFICATION, THE PUBLIC BODY SHALL WITHHOLD
32 FROM PAYMENT DUE THE CONTRACTOR OR SUBCONTRACTOR AN AMOUNT
33 SUFFICIENT TO SATISFY A LIABILITY OF A CONTRACTOR OR SUBCONTRACTOR

1 FOR LIQUIDATED DAMAGES, IN ACCORDANCE WITH § 17-706 OF THIS SUBTITLE,
2 PENDING A FINAL ORDER.

3 (2) IF A SUBCONTRACTOR IS RESPONSIBLE FOR A VIOLATION OF
4 THIS SUBTITLE, THE CONTRACTOR:

5 (I) MAY WITHHOLD FROM PAYMENT TO THE
6 SUBCONTRACTOR AN AMOUNT EQUAL TO THE AMOUNT WITHHELD FROM THE
7 CONTRACTOR UNDER PARAGRAPH (1) OF THIS SUBSECTION; OR

8 (II) IF PAYMENT HAS BEEN MADE TO THE SUBCONTRACTOR,
9 MAY SUE TO RECOVER THAT AMOUNT.

10 (D) (1) THE COMMISSIONER SHALL ISSUE A NOTICE OF HEARING
11 WITHIN 30 DAYS AFTER COMPLETING AN INVESTIGATION.

12 (2) THE NOTICE OF HEARING SHALL:

13 (I) INCLUDE A STATEMENT OF FACTS DISCLOSED IN THE
14 INVESTIGATION;

15 (II) INCLUDE THE TIME AND PLACE OF THE HEARING; AND

16 (III) BE SERVED ON ALL INTERESTED PERSONS, INCLUDING
17 THE PUBLIC BODY.

18 (3) THE COMMISSIONER MAY DELEGATE TO THE OFFICE OF
19 ADMINISTRATIVE HEARINGS THE AUTHORITY TO HOLD A HEARING AND ISSUE
20 PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND AN ORDER
21 INCLUDING LIQUATED DAMAGES, IF ANY, IN ACCORDANCE WITH TITLE 10,
22 SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

23 (4) A DECISION OF AN ADMINISTRATIVE LAW JUDGE ISSUED IN
24 ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT
25 ARTICLE SHALL BECOME A FINAL ORDER OF THE COMMISSIONER UNLESS,
26 WITHIN 15 DAYS OF THE ISSUANCE OF THE PROPOSED DECISION:

27 (I) THE COMMISSIONER ORDERS REVIEW OF THE
28 PROPOSED DECISION; OR

29 (II) AN EMPLOYER SUBMITS TO THE COMMISSIONER A
30 WRITTEN REQUEST FOR REVIEW OF THE PROPOSED ORDER.

1 **(5) AFTER REVIEW, WITH OR WITHOUT A HEARING, ON THE**
2 **RECORD, THE COMMISSIONER SHALL ISSUE AN ORDER THAT, ON THE BASIS OF**
3 **FINDINGS OF FACT AND CONCLUSIONS OF LAW, AFFIRMS, MODIFIES, OR**
4 **VACATES THE PROPOSED DECISION.**

5 **(6) AN ORDER OF THE COMMISSIONER UNDER PARAGRAPH (5)**
6 **OF THIS SUBSECTION IS THE FINAL ADMINISTRATIVE ORDER.**

7 **(7) ON ISSUANCE OF A FINAL ORDER, THE PUBLIC BODY, FROM**
8 **THE MONEY DUE THE CONTRACTOR OR SUBCONTRACTOR, SHALL SATISFY THE**
9 **OBLIGATION OF THE CONTRACTOR OR SUBCONTRACTOR TO PAY LIQUIDATED**
10 **DAMAGES IN ACCORDANCE WITH § 17-706 OF THIS SUBTITLE.**

11 **17-706.**

12 **(A) A CONTRACTOR OR SUBCONTRACTOR IS LIABLE TO THE STATE**
13 **GENERAL FUND FOR LIQUIDATED DAMAGES OF NO LESS THAN \$250 PER DAY**
14 **AND NO MORE THAN \$500 PER DAY FOR EACH EMPLOYEE OF A CONTRACTOR OR**
15 **SUBCONTRACTOR WHO IS NOT IN COMPLIANCE WITH THE CONSTRUCTION**
16 **SAFETY TRAINING REQUIREMENT OF § 17-703 OF THIS SUBTITLE.**

17 **(B) A CONTRACTOR OR SUBCONTRACTOR WHO IS FOUND TO HAVE**
18 **KNOWINGLY SUBMITTED A FALSE STATEMENT OF CERTIFICATION OF**
19 **COMPLETION OF THE CONSTRUCTION SAFETY TRAINING REQUIREMENT OF §**
20 **17-703 OF THIS SUBTITLE IS LIABLE TO THE STATE GENERAL FUND FOR**
21 **LIQUIDATED DAMAGES OF NO LESS THAN \$1,000 PER DAY AND NO MORE THAN**
22 **\$3,000 PER DAY FOR EACH DAY THAT THE CONTRACTOR OR SUBCONTRACTOR**
23 **OPERATED UNDER A FALSE STATEMENT OF CERTIFICATION.**

24 **17-707.**

25 **(A) A CONTRACTOR OR SUBCONTRACTOR WHO HAS BEEN FOUND TO**
26 **HAVE VIOLATED § 17-703 OF THIS SUBTITLE ON TWO OR MORE OCCASIONS**
27 **SHALL BE PROHIBITED FROM ENTERING INTO A CONTRACT FOR CONSTRUCTION**
28 **OF A PUBLIC WORK DIRECTLY OR INDIRECTLY FOR A PERIOD OF 3 YEARS.**

29 **(B) THE COMMISSIONER SHALL FILE WITH THE SECRETARY OF STATE**
30 **THE NAME OF ANY CONTRACTOR OR SUBCONTRACTOR WITH TWO OR MORE**
31 **VIOLATIONS WITHIN THE LAST 5 YEARS.**

32 **17-708.**

33 **THE COMMISSIONER MAY ADOPT REGULATIONS NECESSARY TO**
34 **ADMINISTER THE PROVISIONS OF THIS SUBTITLE.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 July 1, 2011.