

Chapter 10

(House Bill 166)

AN ACT concerning

**Labor and Employment – Payment of Wages – Minimum Wage ~~and Enforcement~~
(Fight for Fifteen)**

FOR the purpose of specifying the State minimum wage rate that is in effect for certain time periods ~~and for certain employers except under certain circumstances; increasing, except under certain circumstances, the State minimum wage rate in effect for certain periods of time based on annual growth in a certain consumer price index; requiring the Commissioner of Labor and Industry, beginning at a certain time, to annually determine and announce the growth in the consumer price index, if any, and the new State minimum wage rate; repealing and altering certain provisions of law that authorize certain employers to pay certain employees a certain wage that is less than the State minimum wage under certain circumstances; specifying the tip credit amount that is in effect for certain time periods; prohibiting an employer, beginning on a certain date, from including a tip credit amount as part of the wage of certain employees; repealing the exemption from the Maryland Wage and Hour Law for certain individuals; requiring that a certain summary certain employers are required to keep conspicuously posted in certain places of employment include certain antiretaliation provisions; prohibiting certain employers from taking certain actions under the Maryland Wage Payment and Collection Law; prohibiting certain employers from discriminating against certain employees under certain circumstances; altering the conditions under which certain employers are prohibited from taking adverse actions against certain employees under certain circumstances; altering the list of acts that constitute adverse action under a certain provision of law; requiring that the burden of proof as proved by clear and convincing evidence under certain actions be on the defendant based on certain actions under certain circumstances; repealing certain provisions of law that prohibit certain employees from taking certain actions regarding making certain complaints or bringing or testifying in certain actions or proceedings; authorizing the Commissioner to conduct an investigation under the Maryland Wage and Hour Law on the Commissioner's own initiative or on receipt of a certain complaint; requiring that certain names be kept confidential except under certain circumstances; authorizing the Commissioner to conduct an investigation under the Maryland Wage Payment and Collection Law on the Commissioner's own initiative; authorizing a certain employee to bring an action against an employer for a violation of certain provisions of this Act; authorizing the Commissioner to take certain actions relating to a certain claim by an employee under certain circumstances; specifying the time period for filing a certain action and the scope of a certain action; providing that a certain limitation period does not apply during a certain investigation; requiring a court to allow against a certain employer reasonable counsel fees and costs in a certain action; establishing certain penalties against certain employers; authorizing the Commissioner or a court to order certain civil penalties or certain relief under certain~~

~~circumstances; requiring that certain civil penalties be paid to the General Fund for certain purposes; providing that certain enforcement provisions, civil penalties, and remedies apply to violations of certain provisions of this Act in the same manner as certain other violations; requiring the Board of Public Works to make a certain determination on or before certain dates, subject to a certain exception and a certain limitation; authorizing the Board to consider certain other information under certain circumstances when making a certain determination; authorizing the Board to temporarily suspend an increase in the minimum wage rate for a certain period of time under certain circumstances, subject to a certain limitation; specifying the minimum wage rate in effect for a certain period if the Board temporarily suspends an increase to the minimum wage rate; requiring certain minimum wage rates to take effect at a certain time; requiring the Board to notify the Commissioner of Labor and Industry if the Board has temporarily suspended a certain increase in the minimum wage rate; prohibiting a rate increase for certain providers from going into effect if the Board has temporarily suspended a certain increase in the minimum wage rate; requiring the Commissioner to adopt certain regulations; requiring the Commissioner to provide a certain notification on a certain website; requiring an employer, beginning at a certain time, to pay certain employees a wage that is at least equal to the State minimum wage rate; requiring the Governor, in certain fiscal years, to include in a certain budget proposal certain funding to reimburse community service providers; requiring that the Governor's proposed budget for certain fiscal years include certain rate increases for certain providers over the funding provided in certain legislative appropriations; requiring that the Governor's proposed budget for fiscal year 2021 and each fiscal year thereafter for certain providers be presented in the same manner as in a certain fiscal year budget; making conforming changes; repealing obsolete provisions of law; defining certain terms; altering a certain definition; and generally relating to the payment of wages.~~

BY repealing and reenacting, with amendments,
 Article – Health – General
 Section ~~7–307 and 16–201.3~~
 Annotated Code of Maryland
 (2015 Replacement Volume and 2018 Supplement)

BY adding to
Article – Health – General
Section 16–201.4
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
 Article – Labor and Employment
 Section ~~3–103, 3–403, 3–413, 3–419, 3–423, 3–428, and 3–508~~ 3–413
 Annotated Code of Maryland
 (2016 Replacement Volume and 2018 Supplement)

BY adding toArticle – Labor and EmploymentSection 3–413.1 and 3–419(d)Annotated Code of Maryland(2016 Replacement Volume and 2018 Supplement)

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

Article – Health – General

7–307.

(a) (1) In this section the following words have the meanings indicated.

(2) “Community direct service worker” means an employee of a community provider that provides treatment or services to developmentally disabled individuals.

(3) “Community provider” means a community–based agency or program funded by the Administration to serve individuals with developmental disabilities.

(4) “Rate” means the reimbursement rate paid by the Department to a community provider from the State General Fund, Maryland Medical Assistance Program funds, other State or federal funds, or a combination of funds.

(b) Notwithstanding the provisions of this title or any other provision of law, the Department shall reimburse community providers as provided in this section.

(c) Subject to subsection (d) of this section, the Department shall increase the rate of reimbursement for community services providers each fiscal year by the amount of rate increase included in the State budget for that fiscal year.

(d) [(1) The Governor’s proposed budget for fiscal year 2016 shall include a 3.5% rate increase for community service providers over the funding provided in the legislative appropriation for Object 08 Contractual Services in Program M00M01.02 Community Services for fiscal year 2015.

(2) The Governor’s proposed budget for fiscal year 2017 shall include a 3.5% rate increase for community service providers over the funding provided in the legislative appropriation for Object 08 Contractual Services in Program M00M01.02 Community Services for fiscal year 2016.

(3) The Governor’s proposed budget for fiscal year 2018 shall include a 3.5% rate increase for community service providers over the funding provided in the legislative appropriation for Object 08 Contractual Services in Program M00M01.02 Community Services for fiscal year 2017.]

[(4)] (1) The Governor's proposed budget for fiscal year 2019 shall include a 3.5% rate increase for community service providers over the funding provided in the legislative appropriation for Object 08 Contractual Services in Program M00M01.02 Community Services for fiscal year 2018.

~~**(2) THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2020 SHALL INCLUDE A 7% RATE INCREASE FOR COMMUNITY SERVICE PROVIDERS OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00M01.02 COMMUNITY SERVICES FOR FISCAL YEAR 2019.**~~

~~**(3) (2)**~~ **THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2021 SHALL INCLUDE A ~~5.5%~~ 3% ~~5%~~ 4% RATE INCREASE FOR COMMUNITY SERVICE PROVIDERS OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00M01.02 COMMUNITY SERVICES FOR FISCAL YEAR 2020.**

~~**(4) (3)**~~ **THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2022 SHALL INCLUDE A ~~5.5%~~ 3% ~~5%~~ 4% RATE INCREASE FOR COMMUNITY SERVICE PROVIDERS OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00M01.02 COMMUNITY SERVICES FOR FISCAL YEAR 2021.**

~~**(5) (4)**~~ **THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2023 SHALL INCLUDE A ~~5.5%~~ 3% ~~4.5%~~ 4% RATE INCREASE FOR COMMUNITY SERVICE PROVIDERS OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00M01.02 COMMUNITY SERVICES FOR FISCAL YEAR 2022.**

~~**(6) THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2024, AND FOR EACH FISCAL YEAR THEREAFTER, SHALL INCLUDE A PERCENTAGE RATE INCREASE THAT IS NOT LESS THAN THE PERCENTAGE INCREASE IN THE STATE MINIMUM WAGE RATE UNDER § 3-413 OF THE LABOR AND EMPLOYMENT ARTICLE FOR COMMUNITY SERVICE PROVIDERS OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00M01.02 COMMUNITY SERVICES FOR THE IMMEDIATELY PRECEDING FISCAL YEAR.**~~

(5) THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2024 SHALL INCLUDE A ~~3%~~ 4% RATE INCREASE FOR COMMUNITY SERVICE PROVIDERS OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR OBJECT

08 CONTRACTUAL SERVICES IN PROGRAM M00M01.02 COMMUNITY SERVICES FOR FISCAL YEAR 2023.

(6) THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2025 SHALL INCLUDE A ~~3%~~ 4% RATE INCREASE FOR COMMUNITY SERVICE PROVIDERS OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00M01.02 COMMUNITY SERVICES FOR FISCAL YEAR 2024.

(7) THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2026 SHALL INCLUDE A ~~3%~~ 4% RATE INCREASE FOR COMMUNITY SERVICE PROVIDERS OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00M01.02 COMMUNITY SERVICES FOR FISCAL YEAR 2025.

(e) The Governor's proposed budget for fiscal year 2016 and thereafter for community service providers shall be presented in the same manner, including object and program information, as provided for in the fiscal year 2015 budget.

(f) A portion of the funds in subsection (e) of this section may be allocated to address the impact of an increase in the State minimum wage on wages and benefits of direct support workers employed by community providers licensed by the Developmental Disabilities Administration.

16-201.3.

(a) (1) In this section the following words have the meanings indicated.

(2) "Community provider" means a community-based agency or program funded by the Behavioral Health Administration or the Medical Care Programs Administration to serve individuals with mental disorders, substance-related disorders, or a combination of these disorders.

(3) "Rate" means the reimbursement rate paid by the Department to a community provider from the State General Fund, Maryland Medical Assistance Program funds, other State or federal funds, or a combination of these funds.

(b) This section does not apply to reimbursement for any service provided by a community provider whose rates are regulated by the Health Services Cost Review Commission.

(c) It is the intent of the General Assembly that a substantial portion of the rate adjustment provided under subsection (d) of this section be used to:

(1) Compensate direct care staff and licensed clinicians employed by community providers; and

(2) Improve the quality of programming provided by community providers.

(d) (1) The Governor's proposed budget for fiscal year 2019 and fiscal year 2020 shall include a 3.5% rate increase for community providers over the funding provided in the legislative appropriation for the immediately preceding fiscal year for each of the following:

(i) Object 08 Contractual Services in Program M00Q01.10 Medicaid Behavioral Health Provider Reimbursement – Medical Care Programs Administration;

(ii) Object 08 Contractual Services in Program M00L01.02 Community Services – Behavioral Health Administration; and

(iii) Object 08 Contractual Services in Program M00L01.03 Community Services for Medicaid State Fund Recipients – Behavioral Health Administration.

[(2) If the Behavioral Health Administration does not implement the payment system required under subsection (e) of this section for use in fiscal year 2021, the Governor's proposed budget for fiscal year 2021 shall include a 3% rate increase for community providers over the funding provided in the legislative appropriation for the immediately preceding fiscal year for each of the following:

(i) Object 08 Contractual Services in Program M00Q01.10 Medicaid Behavioral Health Provider Reimbursement – Medical Care Programs Administration;

(ii) Object 08 Contractual Services in Program M00L01.02 Community Services – Behavioral Health Administration; and

(iii) Object 08 Contractual Services in Program M00L01.03 Community Services for Medicaid State Fund Recipients – Behavioral Health Administration.]

(2) THE GOVERNOR'S PROPOSED BUDGET FOR FISCAL YEAR 2021 SHALL INCLUDE A 4% RATE INCREASE FOR COMMUNITY PROVIDERS OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR THE IMMEDIATELY PRECEDING FISCAL YEAR FOR EACH OF THE FOLLOWING:

(1) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00Q01.10 MEDICAID BEHAVIORAL HEALTH PROVIDER REIMBURSEMENT – MEDICAL CARE PROGRAMS ADMINISTRATION;

(II) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00L01.02 COMMUNITY SERVICES – BEHAVIORAL HEALTH ADMINISTRATION; AND

(III) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00L01.03 COMMUNITY SERVICES FOR MEDICAID STATE FUND RECIPIENTS – BEHAVIORAL HEALTH ADMINISTRATION.

(3) THE GOVERNOR’S PROPOSED BUDGET FOR FISCAL YEAR 2022 SHALL INCLUDE A ~~2%~~ 3.5% RATE INCREASE FOR COMMUNITY PROVIDERS OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR THE IMMEDIATELY PRECEDING FISCAL YEAR FOR EACH OF THE FOLLOWING:

(I) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00Q01.10 MEDICAID BEHAVIORAL HEALTH PROVIDER REIMBURSEMENT – MEDICAL CARE PROGRAMS ADMINISTRATION;

(II) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00L01.02 COMMUNITY SERVICES – BEHAVIORAL HEALTH ADMINISTRATION; AND

(III) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00L01.03 COMMUNITY SERVICES FOR MEDICAID STATE FUND RECIPIENTS – BEHAVIORAL HEALTH ADMINISTRATION.

(4) THE GOVERNOR’S PROPOSED BUDGET FOR FISCAL YEAR 2023 SHALL INCLUDE A ~~2%~~ 3.25% RATE INCREASE FOR COMMUNITY PROVIDERS OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR THE IMMEDIATELY PRECEDING FISCAL YEAR FOR EACH OF THE FOLLOWING:

(I) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00Q01.10 MEDICAID BEHAVIORAL HEALTH PROVIDER REIMBURSEMENT – MEDICAL CARE PROGRAMS ADMINISTRATION;

(II) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00L01.02 COMMUNITY SERVICES – BEHAVIORAL HEALTH ADMINISTRATION; AND

(III) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00L01.03 COMMUNITY SERVICES FOR MEDICAID STATE FUND RECIPIENTS – BEHAVIORAL HEALTH ADMINISTRATION.

(5) THE GOVERNOR’S PROPOSED BUDGET FOR FISCAL YEAR 2024 SHALL INCLUDE A 3% RATE INCREASE FOR COMMUNITY PROVIDERS OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR THE IMMEDIATELY PRECEDING FISCAL YEAR FOR EACH OF THE FOLLOWING:

(I) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00Q01.10 MEDICAID BEHAVIORAL HEALTH PROVIDER REIMBURSEMENT – MEDICAL CARE PROGRAMS ADMINISTRATION;

(II) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00L01.02 COMMUNITY SERVICES – BEHAVIORAL HEALTH ADMINISTRATION; AND

(III) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00L01.03 COMMUNITY SERVICES FOR MEDICAID STATE FUND RECIPIENTS – BEHAVIORAL HEALTH ADMINISTRATION.

(6) THE GOVERNOR’S PROPOSED BUDGET FOR FISCAL YEAR 2025 SHALL INCLUDE A ~~3%~~ 4% RATE INCREASE FOR COMMUNITY PROVIDERS OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR THE IMMEDIATELY PRECEDING FISCAL YEAR FOR EACH OF THE FOLLOWING:

(I) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00Q01.10 MEDICAID BEHAVIORAL HEALTH PROVIDER REIMBURSEMENT – MEDICAL CARE PROGRAMS ADMINISTRATION;

(II) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00L01.02 COMMUNITY SERVICES – BEHAVIORAL HEALTH ADMINISTRATION; AND

(III) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00L01.03 COMMUNITY SERVICES FOR MEDICAID STATE FUND RECIPIENTS – BEHAVIORAL HEALTH ADMINISTRATION.

(7) THE GOVERNOR’S PROPOSED BUDGET FOR FISCAL YEAR 2026 SHALL INCLUDE A ~~3%~~ 4% RATE INCREASE FOR COMMUNITY PROVIDERS OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR THE IMMEDIATELY PRECEDING FISCAL YEAR FOR EACH OF THE FOLLOWING:

(I) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00Q01.10 MEDICAID BEHAVIORAL HEALTH PROVIDER REIMBURSEMENT – MEDICAL CARE PROGRAMS ADMINISTRATION;

(II) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00L01.02 COMMUNITY SERVICES – BEHAVIORAL HEALTH ADMINISTRATION; AND

(III) OBJECT 08 CONTRACTUAL SERVICES IN PROGRAM M00L01.03 COMMUNITY SERVICES FOR MEDICAID STATE FUND RECIPIENTS – BEHAVIORAL HEALTH ADMINISTRATION.

[(3)] (8) The Governor's proposed budget for fiscal [years] YEAR 2019 [through 2021] AND EACH FISCAL YEAR THEREAFTER for community providers shall be presented in the same manner, including object and program information, as in the fiscal year 2018 budget.

(e) (1) The Behavioral Health Administration and the Medical Care Programs Administration jointly shall:

(i) Conduct an independent cost-driven, rate-setting study to set community provider rates for community-based behavioral health services that includes a rate analysis and an impact study that considers the actual cost of providing community-based behavioral health services;

(ii) Develop and implement a payment system incorporating the findings of the rate-setting study conducted under item (i) of this paragraph, including projected costs of implementation and recommendations to address any potential shortfall in funding; and

(iii) Consult with stakeholders, including community providers and individuals receiving services, in conducting the rate-setting study and developing the payment system required by this paragraph.

(2) The Administration, on or before September 30, 2019, shall complete the study required under paragraph (1)(i) of this subsection.

(3) The Administration shall adopt regulations to implement the payment system required by paragraph (1) of this subsection.

(f) If services of community providers are provided through managed care organizations, the managed care organizations shall:

(1) Pay the rate in effect during the immediately preceding fiscal year for the first fiscal year the managed care organizations provide the services; and

(2) Adjust the rate for community providers each fiscal year by at least the same amount that otherwise would have been required under subsection (d) of this section.

(g) Increased funding provided under subsection (d) of this section may be used only to increase the rates paid to:

(1) Community providers accredited by a State-approved accrediting body and licensed by the State; and

(2) Health care providers who are acting within the scopes of practice of the health care providers' licenses or certificates as specified under the Health Occupations Article.

(h) (1) On or before December 1, 2018, the Department shall submit an interim report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on the delivery system through which community–based behavioral health services should be provided and any preliminary recommendations regarding the payment system required under this section.

(2) On or before December 1, 2019, and on or before December 1 each year thereafter, the Department shall submit a report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on the impact of the rate adjustments and the payment system required under this section on community providers, including the impact on:

(i) The wages and salaries paid and the benefits provided to direct care staff and licensed clinicians employed by community providers;

(ii) The tenure and turnover of direct care staff and licensed clinicians employed by community providers; and

(iii) The ability of community providers to recruit qualified direct care staff and licensed clinicians.

(3) The Department may require a community provider to submit, in the form and manner required by the Department, information that the Department considers necessary for completion of the report required under paragraph (2) of this subsection.

16–201.4.

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

(2) “PROVIDER” MEANS A PROVIDER OF:

(I) NURSING HOME SERVICES;

(II) MEDICAL DAY CARE SERVICES;

(III) PRIVATE DUTY NURSING SERVICES;

(IV) PERSONAL CARE SERVICES;

(V) HOME– AND COMMUNITY–BASED SERVICES; AND

(VI) SERVICES PROVIDED THROUGH THE COMMUNITY FIRST CHOICE PROGRAM.

(3) “RATE” MEANS THE REIMBURSEMENT RATE PAID BY THE DEPARTMENT TO PROVIDERS OF NURSING HOME, MEDICAL DAY CARE, PRIVATE DUTY NURSING, PERSONAL CARE, AND HOME- AND COMMUNITY-BASED SERVICES AND SERVICES PROVIDED THROUGH THE COMMUNITY FIRST CHOICE PROGRAM FROM THE STATE GENERAL FUND, MARYLAND MEDICAL ASSISTANCE PROGRAM FUNDS, OTHER STATE OR FEDERAL FUNDS, OR A COMBINATION OF THESE FUNDS.

(B) (1) THE GOVERNOR’S PROPOSED BUDGET FOR FISCAL YEAR 2021 SHALL INCLUDE A 4% RATE INCREASE FOR PROVIDERS OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR THE IMMEDIATELY PRECEDING FISCAL YEAR IN PROGRAM M00Q01.03 MEDICAL CARE PROVIDER REIMBURSEMENTS – MEDICAL CARE PROGRAMS ADMINISTRATION AND PROGRAM M00Q01.07 MARYLAND CHILDREN’S HEALTH PROGRAM – MEDICAL CARE PROGRAMS ADMINISTRATION.

(2) THE GOVERNOR’S PROPOSED BUDGET FOR FISCAL YEAR 2022 SHALL INCLUDE A 4% RATE INCREASE FOR PROVIDERS OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR THE IMMEDIATELY PRECEDING FISCAL YEAR IN PROGRAM M00Q01.03 MEDICAL CARE PROVIDER REIMBURSEMENTS – MEDICAL CARE PROGRAMS ADMINISTRATION AND PROGRAM M00Q01.07 MARYLAND CHILDREN’S HEALTH PROGRAM – MEDICAL CARE PROGRAMS ADMINISTRATION.

(3) THE GOVERNOR’S PROPOSED BUDGET FOR FISCAL YEAR 2023 SHALL INCLUDE A 4% RATE INCREASE FOR PROVIDERS OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR THE IMMEDIATELY PRECEDING FISCAL YEAR IN PROGRAM M00Q01.03 MEDICAL CARE PROVIDER REIMBURSEMENTS – MEDICAL CARE PROGRAMS ADMINISTRATION AND PROGRAM M00Q01.07 MARYLAND CHILDREN’S HEALTH PROGRAM – MEDICAL CARE PROGRAMS ADMINISTRATION.

(4) THE GOVERNOR’S PROPOSED BUDGET FOR FISCAL YEAR 2024 SHALL INCLUDE A 4% RATE INCREASE FOR PROVIDERS OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR THE IMMEDIATELY PRECEDING FISCAL YEAR IN PROGRAM M00Q01.03 MEDICAL CARE PROVIDER REIMBURSEMENTS – MEDICAL CARE PROGRAMS ADMINISTRATION AND PROGRAM M00Q01.07 MARYLAND CHILDREN’S HEALTH PROGRAM – MEDICAL CARE PROGRAMS ADMINISTRATION.

(5) THE GOVERNOR’S PROPOSED BUDGET FOR FISCAL YEAR 2025 SHALL INCLUDE A 4% RATE INCREASE FOR PROVIDERS OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR THE IMMEDIATELY

PRECEDING FISCAL YEAR IN PROGRAM M00Q01.03 MEDICAL CARE PROVIDER REIMBURSEMENTS – MEDICAL CARE PROGRAMS ADMINISTRATION AND PROGRAM M00Q01.07 MARYLAND CHILDREN’S HEALTH PROGRAM – MEDICAL CARE PROGRAMS ADMINISTRATION.

(6) THE GOVERNOR’S PROPOSED BUDGET FOR FISCAL YEAR 2026 SHALL INCLUDE A 4% RATE INCREASE FOR PROVIDERS OVER THE FUNDING PROVIDED IN THE LEGISLATIVE APPROPRIATION FOR THE IMMEDIATELY PRECEDING FISCAL YEAR IN PROGRAM M00Q01.03 MEDICAL CARE PROVIDER REIMBURSEMENTS – MEDICAL CARE PROGRAMS ADMINISTRATION AND PROGRAM M00Q01.07 MARYLAND CHILDREN’S HEALTH PROGRAM – MEDICAL CARE PROGRAMS ADMINISTRATION.

(7) THE GOVERNOR’S PROPOSED BUDGET FOR FISCAL YEAR 2021 AND EACH FISCAL YEAR THEREAFTER SHALL BE PRESENTED IN THE SAME MANNER, INCLUDING OBJECT AND PROGRAM INFORMATION, AS IN THE FISCAL YEAR 2020 BUDGET.

Article – Labor and Employment

~~§ 103.~~

~~(a) Except as otherwise provided in this section, the Commissioner may conduct an investigation to determine whether a provision of this title has been violated on the Commissioner’s own initiative or may require a written complaint.~~

~~(b) The Commissioner may conduct an investigation under Subtitle 3 of this title, on the Commissioner’s own initiative or on receipt of a written complaint of an employee.~~

~~(c) THE COMMISSIONER MAY CONDUCT AN INVESTIGATION UNDER SUBTITLE 4 OF THIS TITLE, ON THE COMMISSIONER’S OWN INITIATIVE OR ON RECEIPT OF A WRITTEN COMPLAINT OF AN EMPLOYEE.~~

~~[(c)] (D) The Commissioner may conduct an investigation to determine whether Subtitle 5 of this title has been violated ON THE COMMISSIONER’S OWN INITIATIVE OR on receipt of a written complaint of an employee.~~

~~[(d)] (E) The Commissioner may conduct an investigation to determine whether Subtitle 6 of this title has been violated on receipt of a written complaint of a sales representative.~~

~~[(e)] (F) (1) The Commissioner may investigate whether § 3-701 of this title has been violated on receipt of a written complaint of an applicant for employment.~~

~~(2) The Commissioner may investigate whether § 3-702 of this title has been violated on receipt of a written complaint of an applicant for employment or an employee.~~

~~(3) The Commissioner may investigate whether § 3-704 of this title has been violated on receipt of a written complaint of an employee.~~

~~(4) The Commissioner may investigate whether § 3-710 of this title has been violated on receipt of a written complaint of an employee as provided in § 3-710(d)(1) of this title.~~

~~(5) The Commissioner may investigate whether § 3-711 of this title has been violated on receipt of a written complaint of an employee as provided in § 3-711(d)(1) of this title.~~

~~(6) The Commissioner may investigate whether § 3-712 of this title has been violated on receipt of a written complaint of an employee or applicant.~~

~~[(f)] (G) (1) The Commissioner may investigate whether § 3-801 of this title has been violated on receipt of a written complaint of an employee.~~

~~(2) The Commissioner may investigate whether § 3-802 of this title has been violated on receipt of a written complaint of an employee.~~

~~[(g)] (H) The Commissioner may investigate whether Subtitle 9 of this title has been violated:~~

~~(1) on the Commissioner's own initiative;~~

~~(2) on receipt of a written complaint signed by the person submitting the complaint; or~~

~~(3) on referral from another unit of State government.~~

~~[(h)] (I) The Commissioner may conduct an investigation to determine whether Subtitle 10 of this title has been violated on receipt of a written complaint of an employee.~~

~~[(i)] (J) The Commissioner may conduct an investigation to determine whether Subtitle 12 of this title has been violated on receipt of a written complaint of an employee.~~

~~[(j)] (K) The Commissioner, on the Commissioner's own initiative or on receipt of a written complaint, may conduct an investigation of whether a local minimum wage law has been violated.~~

~~[(k)] (L)~~ (1) ~~The Commissioner may conduct an investigation to determine whether Subtitle 13 of this title has been violated on receipt of a written complaint by an employee.~~

~~(2) To the extent practicable, the Commissioner shall keep confidential the identity of an employee who has filed a written complaint alleging a violation of Subtitle 13 of this title unless the employee waives confidentiality.~~

~~§ 403.~~

~~This subtitle does not apply to an individual who:~~

~~(1) is employed in a capacity that the Commissioner defines, by regulation, to be administrative, executive, or professional;~~

~~(2) is employed in a nonadministrative capacity at an organized camp, including a resident or day camp;~~

~~(3) is under the age of 16 years and is employed no more than 20 hours in a week;~~

~~(4) is employed as an outside salesman;~~

~~[(5) is compensated on a commission basis;]~~

~~[(6)] (5) is a child, parent, spouse, or other member of the immediate family of the employer;~~

~~[(7)] (6) is employed in a drive-in theater;~~

~~[(8)] (7) is employed as part of the training in a special education program for emotionally, mentally, or physically handicapped students under a public school system;~~

~~[(9) is employed by an employer who is engaged in canning, freezing, packing, or first processing of perishable or seasonal fresh fruits, vegetables, or horticultural commodities, poultry, or seafood;]~~

~~[(10)] (8) engages in the activities of a charitable, educational, nonprofit, or religious organization if:~~

~~(i) the service is provided gratuitously; and~~

~~(ii) there is, in fact, no employer-employee relationship;~~

~~[(11)] (9) is employed in a cafe, drive in, drugstore, restaurant, tavern, or other similar establishment that:~~

- ~~(i) sells food and drink for consumption on the premises; and~~
- ~~(ii) has an annual gross income of \$400,000 or less; OR~~

~~[(12) is employed in agriculture if, during each quarter of the preceding calendar year, the employer used no more than 500 agricultural worker days;~~

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

~~[(14)] (10) 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.] (I) is under the age of 17;~~

~~[2.] (II) is employed on the same farm as a parent of the individual or a person standing in the place of the parent; and~~

~~[3.] (III) is paid at the same rate that an employee who is at least 17 years old is paid on the same farm.~~

3-413.

~~(a) (1) In this section[, “employer”] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(2) “CONSUMER PRICE INDEX” MEANS THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS FOR THE WASHINGTON ARLINGTON ALEXANDRIA, DC VA MD WV METROPOLITAN AREA OR A SUCCESSOR METROPOLITAN AREA INDEX PUBLISHED BY THE FEDERAL BUREAU OF LABOR STATISTICS.~~

~~(3) “EMPLOYER” includes includes a governmental unit.~~

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

(2) “EMPLOYER” INCLUDES A GOVERNMENTAL UNIT.

(3) “SMALL EMPLOYER” MEANS AN EMPLOYER THAT EMPLOYS 14 OR FEWER EMPLOYEES.

(b) Except as provided in ~~subsection (d) of this section and~~ ~~§ 3-414~~ **§§ 3-413.1 AND 3-414** of this subtitle, each employer shall pay:

(1) to each employee who is subject to both the federal Act and this subtitle, at least the greater of:

- (i) the minimum wage for that employee under the federal Act; or
- (ii) the State minimum wage rate set under subsection (c) of this

section; and

(2) to each other employee who is subject to this subtitle, at least[:

(i)] the greater of:

[1.] (I) the highest minimum wage under the federal Act;

or

[2.] (II) the State minimum wage rate set under subsection

(c) of this section]; or

(ii) a training wage under regulations that the Commissioner adopts that include the conditions and limitations authorized under the federal Fair Labor Standards Amendments of 1989].

(c) **(1) ~~(1)~~ The SUBJECT TO § 3-413.1 OF THIS SUBTITLE AND EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE** State minimum wage rate is:

- [(1) for the 6-month period beginning January 1, 2015, \$8.00 per hour;
- (2) for the 12-month period beginning July 1, 2015, \$8.25 per hour;
- (3) for the 12-month period beginning July 1, 2016, \$8.75 per hour;]

[(4)] ~~(I)~~ ~~(1)~~ (I) for the 12-month period beginning July 1, 2017, \$9.25 per hour; [and]

[(5)] ~~(II)~~ ~~(2)~~ (II) FOR THE ~~12-MONTH~~ 18-MONTH PERIOD beginning July 1, 2018, \$10.10 per hour;

~~(III)~~ ~~(3)~~ (III) FOR THE 12-MONTH PERIOD BEGINNING ~~JULY 1, 2019,~~ JANUARY 1, 2020, \$11.00 PER HOUR;

~~(IV)~~ ~~(4)~~ (IV) FOR THE 12-MONTH PERIOD BEGINNING ~~JULY 1, 2020,~~ JANUARY 1, 2021, ~~\$12.00~~ \$11.75 PER HOUR;

~~(V)~~ ~~(5)~~ (V) FOR THE 12-MONTH PERIOD BEGINNING ~~JULY 1, 2021,~~ JANUARY 1, 2022, ~~\$13.00~~ \$12.50 PER HOUR;

~~(VI)~~ ~~(6)~~ (VI) FOR THE 12-MONTH PERIOD BEGINNING ~~JULY 1, 2022,~~ JANUARY 1, 2023, ~~\$14.00~~ \$13.25 PER HOUR;

~~(VII)~~ ~~(7)~~ (VII) FOR THE 12-MONTH PERIOD BEGINNING ~~JULY 1, 2023,~~ JANUARY 1, 2024, ~~\$15.00~~ \$14.00 PER HOUR; AND

~~(8)~~ (VIII) BEGINNING JANUARY 1, 2025, \$15.00 PER HOUR.

(2) SUBJECT TO § 3-413.1 OF THIS SUBTITLE, THE STATE MINIMUM WAGE RATE FOR A SMALL EMPLOYER IS:

(I) FOR THE 18-MONTH PERIOD BEGINNING JULY 1, 2018, \$10.10 PER HOUR;

(II) FOR THE 12-MONTH PERIOD BEGINNING JANUARY 1, 2020, \$11.00 PER HOUR;

(III) FOR THE 12-MONTH PERIOD BEGINNING JANUARY 1, 2021, \$11.50 \$11.60 PER HOUR;

(IV) FOR THE 12-MONTH PERIOD BEGINNING JANUARY 1, 2022, \$12.00 \$12.20 PER HOUR;

(V) FOR THE 12-MONTH PERIOD BEGINNING JANUARY 1, 2023, \$12.50 \$12.80 PER HOUR;

(VI) FOR THE 12-MONTH PERIOD BEGINNING JANUARY 1, 2024, \$13.00 \$13.40 PER HOUR;

~~(VII) FOR THE 12-MONTH PERIOD BEGINNING JANUARY 1, 2025, \$13.50 \$14.00 PER HOUR;~~

~~(VIII) FOR THE ~~12-MONTH~~ 6-MONTH PERIOD BEGINNING JANUARY 1, 2026, \$14.00 \$14.60 PER HOUR; AND~~

~~(IX) FOR THE 12-MONTH PERIOD BEGINNING JANUARY 1, 2027, \$14.50 PER HOUR; AND~~

~~(X) (IX) BEGINNING JANUARY 1, 2028 JULY 1, 2026, \$15.00 PER HOUR.~~

~~(VIII) FOR EACH SUBSEQUENT 12-MONTH PERIOD BEGINNING JULY 1, 2024, AND EACH JULY 1 THEREAFTER, THE RATE DETERMINED BY THE COMMISSIONER UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION.~~

~~(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2024, AND EACH SUBSEQUENT 12-MONTH PERIOD, THE STATE MINIMUM WAGE RATE SHALL BE INCREASED BY THE AMOUNT, ROUNDED TO THE NEAREST 5-CENTS, THAT EQUALS THE PRODUCT OF:~~

~~1. THE STATE MINIMUM WAGE RATE IN EFFECT FOR THE IMMEDIATELY PRECEDING 12-MONTH PERIOD; AND~~

~~2. THE AVERAGE PERCENT GROWTH IN THE CONSUMER PRICE INDEX FOR THE IMMEDIATELY PRECEDING 12-MONTH PERIOD, AS DETERMINED BY THE COMMISSIONER UNDER SUBPARAGRAPH (II)1 OF THIS PARAGRAPH.~~

~~(II) BEGINNING MARCH 1, 2024, AND EACH MARCH 1 THEREAFTER, THE COMMISSIONER SHALL DETERMINE AND ANNOUNCE:~~

~~1. THE AVERAGE PERCENT GROWTH, IF ANY, IN THE CONSUMER PRICE INDEX BASED ON THE IMMEDIATELY PRECEDING 12-MONTH PERIOD FOR WHICH DATA ARE AVAILABLE ON MARCH 1; AND~~

~~2. THE STATE MINIMUM WAGE RATE THAT WILL BE EFFECTIVE FOR THE 12-MONTH PERIOD BEGINNING THE FOLLOWING JULY 1.~~

~~(III) IF THE COMMISSIONER DETERMINES THAT THERE IS A DECLINE OR NO GROWTH IN THE CONSUMER PRICE INDEX, THE STATE MINIMUM~~

~~WAGE RATE SHALL REMAIN THE SAME AS THE RATE THAT WAS IN EFFECT FOR THE IMMEDIATELY PRECEDING 12 MONTH PERIOD.~~

~~f(d) (1) (i) Except as provided in paragraph (2) of this subsection and subject to subparagraph (ii) of this paragraph, an AN employer may pay an employee a wage that equals a rate of 85% of the State minimum wage established under this section if the employee is under the age of 20 18 years.~~

~~(ii) An employer may pay to an employee the wage provided under subparagraph (i) of this paragraph only for the first 6 months that the employee is employed.~~

~~(2) (i) This paragraph applies only to an employer that is an amusement or a recreational establishment, including a swimming pool, if the employer:~~

~~1. operates for no more than 7 months in a calendar year; or~~

~~2. for any 6 months during the preceding calendar year, has average receipts that do not exceed one third of the average receipts for the other 6 months.~~

~~(ii) An employer may pay an employee a wage that equals the greater of:~~

~~1. 85% of the State minimum wage established under this section; or~~

~~2. \$7.25.]~~

3-413.1.

(A) IN THIS SECTION, "BOARD" MEANS THE BOARD OF PUBLIC WORKS.

(B) (1) SUBJECT TO SUBSECTION (D) OF THIS SECTION AND EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ON OR BEFORE OCTOBER 1, 2020, AND OCTOBER 1 EACH YEAR THEREAFTER UNTIL OCTOBER 1, 2024, THE BOARD SHALL DETERMINE WHETHER THE SEASONALLY ADJUSTED TOTAL EMPLOYMENT FROM THE CURRENT EMPLOYMENT STATISTICS SERIES AS REPORTED BY THE U.S. BUREAU OF LABOR STATISTICS FOR THE MOST RECENT 6-MONTH PERIOD IS NEGATIVE AS COMPARED WITH THE IMMEDIATELY PRECEDING 6-MONTH PERIOD.

(2) THE BOARD IS NOT REQUIRED TO MAKE A DETERMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION IF THE BOARD HAS PREVIOUSLY TEMPORARILY SUSPENDED AN INCREASE TO THE MINIMUM WAGE RATE SPECIFIED UNDER § 3-413(C) OF THIS SUBTITLE.

(C) (1) SUBJECT TO SUBSECTION (D) OF THIS SECTION, THE BOARD MAY TEMPORARILY SUSPEND AN INCREASE TO THE MINIMUM WAGE RATE SPECIFIED UNDER § 3-413(C) OF THIS SUBTITLE IF THE BOARD DETERMINED UNDER SUBSECTION (B)(1) OF THIS SECTION THAT THE SEASONALLY ADJUSTED TOTAL EMPLOYMENT IS NEGATIVE.

(2) IF THE SEASONALLY ADJUSTED TOTAL EMPLOYMENT IS NEGATIVE, THE BOARD MAY CONSIDER THE PERFORMANCE OF STATE REVENUES IN THE PREVIOUS 6 MONTHS, AS REPORTED BY THE OFFICE OF THE COMPTROLLER, IN DETERMINING WHETHER TO TEMPORARILY SUSPEND AN INCREASE TO THE MINIMUM WAGE RATE SPECIFIED UNDER § 3-413(C) OF THIS SUBTITLE.

(D) THE BOARD MAY TEMPORARILY SUSPEND AN INCREASE TO THE MINIMUM WAGE RATE UNDER SUBSECTION (C)(1) OF THIS SECTION ONLY ONE TIME.

(E) IF THE BOARD TEMPORARILY SUSPENDS AN INCREASE TO THE MINIMUM WAGE RATE SPECIFIED UNDER § 3-413(C) OF THIS SUBTITLE:

(1) THE MINIMUM WAGE RATE IN EFFECT FOR THE PERIOD BEGINNING THE FOLLOWING JANUARY 1 SHALL REMAIN THE SAME AS THE RATE THAT WAS IN EFFECT FOR THE IMMEDIATELY PRECEDING 12-MONTH PERIOD;

(2) THE REMAINING MINIMUM WAGE RATES SPECIFIED IN § 3-413 OF THIS SUBTITLE SHALL TAKE EFFECT 1 YEAR LATER THAN THE DATE SPECIFIED;

(3) THE BOARD SHALL NOTIFY THE COMMISSIONER THAT THE MINIMUM WAGE RATE INCREASE FOR THE PERIOD BEGINNING THE FOLLOWING JANUARY 1 IS SUSPENDED FOR 1 YEAR; AND

(4) A RATE INCREASE UNDER §§ 7-307, 16-201.3, AND 16-201.4 OF THE HEALTH – GENERAL ARTICLE FOR THE IMMEDIATELY FOLLOWING FISCAL YEAR MAY NOT GO INTO EFFECT.

3-419.

(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.

~~§ 410.~~

~~(a) (1) 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) (1) 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:~~

~~(I) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2019,~~
~~\$3.63;~~

~~(II) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2020,~~
~~\$5.25;~~

~~(III) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2021,~~
~~\$7.50;~~

~~(IV) FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2022,~~
~~\$9.00;~~

~~(V) FOR THE 12 MONTH PERIOD BEGINNING JULY 1, 2023,
\$10.50;~~

~~(VI) FOR THE 12 MONTH PERIOD BEGINNING JULY 1, 2024,
\$12.00;~~

~~(VII) FOR THE 12 MONTH PERIOD BEGINNING JULY 1, 2025,
\$13.50; AND~~

~~(VIII) FOR THE 12 MONTH PERIOD BEGINNING JULY 1, 2026,
\$15.00.~~

~~(2) BEGINNING JULY 1, 2027, AN EMPLOYER:~~

~~(I) MAY NOT INCLUDE A TIP CREDIT AMOUNT AS PART OF THE
WAGE OF AN EMPLOYEE TO WHOM THIS SECTION APPLIES; AND~~

~~(II) SHALL PAY AN EMPLOYEE A WAGE THAT IS AT LEAST EQUAL
TO THE STATE MINIMUM WAGE ESTABLISHED UNDER § 3-413 OF THIS SUBTITLE.~~

~~§ 423.~~

~~(a) On request by an employer, the Commissioner shall provide without charge a
copy of any summary or regulation to the employer.~~

~~(b) Each employer shall keep posted conspicuously in each place of employment:~~

~~(1) a summary of this subtitle that:~~

~~(I) the Commissioner approves; and~~

~~(II) INCLUDES THE ANTIRETALIATION PROVISIONS UNDER §
3-428(B)(1)(II) OF THIS SUBTITLE; AND~~

~~(2) a copy or summary of each regulation that is adopted to carry out this
subtitle.~~

~~§ 428.~~

~~(a) In this section, “complaint” includes a written or oral complaint, claim, or
assertion of right by an employee, regarding the payment of wages under this subtitle, that
is made to:~~

~~(1) the employer or a supervisor, A manager, [or] A foreman, OR AN INDIVIDUAL WITH APPARENT AUTHORITY TO ALTER THE TERMS OR CONDITIONS OF EMPLOYMENT OF THE EMPLOYEE~~ 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 OR OTHERWISE DISCRIMINATE against an employee because the employee:~~

~~1. makes a complaint;~~

~~A. that the employee has not been paid in accordance with this subtitle; OR~~

~~B. IN GOOD FAITH, THAT THE EMPLOYER ENGAGED IN CONDUCT THAT VIOLATES ANY PROVISION OF THIS SUBTITLE;~~

~~2. brings an action under this subtitle or a proceeding that relates to the subject of this subtitle; [or]~~

~~3. has PARTICIPATED OR testified, OR IS PREPARING TO TESTIFY, in an INVESTIGATION OR action under this subtitle or a proceeding related to the subject of this subtitle; [or]~~

~~4. ASSISTED ANOTHER EMPLOYEE IN MAKING A COMPLAINT RELATED TO VIOLATIONS OF THIS SUBTITLE;~~

~~5. HAS BEEN INFORMED OR INFORMED ANOTHER EMPLOYEE ABOUT THE RIGHTS PROVIDED UNDER THIS SUBTITLE; OR~~

~~6. OPPOSED ANY UNLAWFUL PRACTICE UNDER THIS SUBTITLE;~~

~~(IV) TAKE ADVERSE ACTION OR OTHERWISE DISCRIMINATE AGAINST AN EMPLOYEE BECAUSE THE EMPLOYER BELIEVES THAT THE EMPLOYEE MAY TAKE AN ACTION DESCRIBED IN ITEM (III) OF THIS PARAGRAPH; OR~~

~~[(iv)] (V) violate any other provision of this subtitle.~~

~~(2) Adverse action prohibited under paragraph (1) of this subsection includes:~~

~~(i) discharge;~~

~~(ii) demotion;~~

~~(iii) threatening the employee with discharge or demotion OR ANY OTHER ADVERSE ACTION; [and]~~

~~(IV) BLACKLISTING;~~

~~(V) A REDUCTION OR CHANGE IN WORK HOURS;~~

~~(VI) REPORTING OR THREATENING TO REPORT THE SUSPECTED CITIZENSHIP OR IMMIGRATION STATUS OF AN EMPLOYEE, A FORMER EMPLOYEE, OR A FAMILY MEMBER OF AN EMPLOYEE OR A FORMER EMPLOYEE TO A FEDERAL, STATE, OR LOCAL AGENCY BECAUSE THE EMPLOYEE OR FORMER EMPLOYEE EXERCISED OR ATTEMPTED TO EXERCISE A RIGHT UNDER THIS SUBTITLE; AND~~

~~[(iv)] (VII) any other retaliatory action AGAINST AN EMPLOYEE OR ANOTHER INDIVIDUAL FOR EXERCISING OR ATTEMPTING TO EXERCISE ANY RIGHT UNDER THIS SUBTITLE that results in a change to the terms or conditions of employment that would dissuade a reasonable employee from making a complaint, bringing an action, or testifying in an action under this subtitle.~~

~~[(e) An employee may not:~~

~~(1) make a groundless or malicious complaint to the Commissioner or an authorized representative of the Commissioner;~~

~~(2) in bad faith, bring an action under this subtitle or a proceeding related to the subject of this subtitle; or~~

~~(3) in bad faith, testify in an action under this subtitle or a proceeding related to the subject of this subtitle.]~~

~~[(d)] (C) (1) A person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000.~~

~~[(e)] (2) An employer may not be convicted under this section unless the evidence demonstrates that the employer had knowledge of the relevant complaint, testimony, or action for which the prosecution for retaliation is sought.~~

~~(3) IN ANY ACTION UNDER THIS SECTION, IF IT HAS BEEN DEMONSTRATED BY A PREPONDERANCE OF THE EVIDENCE THAT AN ACTIVITY PROHIBITED UNDER SUBSECTION (B) OF THIS SECTION WAS A CONTRIBUTING FACTOR IN THE ALLEGED RETALIATION OR ADVERSE ACTION AGAINST AN INDIVIDUAL, THE BURDEN OF PROOF SHALL BE ON THE DEFENDANT TO PROVE BY CLEAR AND CONVINCING EVIDENCE THAT THE ALLEGED ADVERSE EMPLOYMENT ACTION WOULD HAVE OCCURRED FOR LEGITIMATE, NONDISCRIMINATORY REASONS EVEN IF THE EMPLOYEE HAD NOT ENGAGED IN THE PROTECTED ACTIVITY.~~

~~(D) THE NAME OF THE EMPLOYEE OR ANOTHER PERSON IDENTIFIED IN THE COMPLAINT OR AN INVESTIGATION BY THE COMMISSIONER UNDER THIS SECTION SHALL BE KEPT CONFIDENTIAL UNLESS THE COMMISSIONER DETERMINES THAT THE EMPLOYEE'S NAME BE DISCLOSED, WITH THE EMPLOYEE'S CONSENT, TO FURTHER INVESTIGATE THE COMPLAINT.~~

~~(E) (1) (i) NOTWITHSTANDING § 3-103(C) OF THIS TITLE, IF AN EMPLOYER'S ACTION VIOLATES SUBSECTION (B) OF THIS SECTION, AN AFFECTED EMPLOYEE MAY BRING AN ACTION AGAINST AN EMPLOYER.~~

~~(ii) AN EMPLOYEE MAY BRING AN ACTION ON BEHALF OF THE EMPLOYEE AND OTHER EMPLOYEES SIMILARLY AFFECTED.~~

~~(2) ON THE WRITTEN REQUEST OF AN EMPLOYEE WHO IS ENTITLED TO BRING AN ACTION UNDER THIS SUBSECTION, THE COMMISSIONER MAY:~~

~~(i) TAKE AN ASSIGNMENT OF THE CLAIM IN TRUST FOR THE EMPLOYEE;~~

~~(ii) ASK THE ATTORNEY GENERAL TO BRING AN ACTION IN ACCORDANCE WITH THIS SECTION ON BEHALF OF THE EMPLOYEE; AND~~

~~(iii) CONSOLIDATE TWO OR MORE CLAIMS AGAINST AN EMPLOYER.~~

~~(3) EXCEPT AS PROVIDED UNDER PARAGRAPH (4) OF THIS SUBSECTION, AN ACTION UNDER THIS SUBSECTION:~~

~~(I) SHALL BE FILED WITHIN 3 YEARS AFTER THE EMPLOYEE KNEW OR SHOULD HAVE KNOWN OF THE EMPLOYER'S ACTION; AND~~

~~(II) MAY ENCOMPASS ALL VIOLATIONS THAT OCCURRED AS PART OF A CONTINUING COURSE OF EMPLOYER CONDUCT REGARDLESS OF THE DATE OF THE VIOLATION.~~

~~(4) THE LIMITATION PERIOD UNDER PARAGRAPH (3) OF THIS SUBSECTION DOES NOT APPLY DURING AN INVESTIGATION UNDER § 3-103(C) OF THIS TITLE.~~

~~(5) IF A COURT DETERMINES THAT AN EMPLOYEE IS ENTITLED TO JUDGMENT IN AN ACTION UNDER THIS SUBSECTION, THE COURT SHALL ALLOW AGAINST THE EMPLOYER REASONABLE COUNSEL FEES AND OTHER COSTS OF THE ACTION.~~

~~(F) (1) IF A PERSON IS FOUND TO HAVE VIOLATED SUBSECTION (B) OF THIS SECTION, THE COMMISSIONER OR COURT SHALL REQUIRE THE PERSON TO PAY THE GREATER OF:~~

~~(I) ACTUAL DAMAGES PLUS LIQUIDATED DAMAGES; OR~~

~~(II) \$500 FOR EACH DAY THAT THE VIOLATION CONTINUED.~~

~~(2) (I) IF AN EMPLOYER WAS FOUND TO HAVE SUBSEQUENTLY VIOLATED THE PROVISIONS OF THIS SUBTITLE WITHIN 6 YEARS AFTER A PREVIOUS VIOLATION, THE COMMISSIONER OR COURT SHALL ASSESS AGAINST THE EMPLOYER A CIVIL PENALTY OF NOT LESS THAN \$10,000.~~

~~(II) THE COMMISSIONER AND A COURT MAY ORDER ADDITIONAL CIVIL PENALTIES AND ANY OTHER APPROPRIATE RELIEF FOR VIOLATIONS OF THIS SUBTITLE.~~

~~(III) EACH CIVIL PENALTY ASSESSED UNDER THIS PARAGRAPH SHALL BE PAID TO THE GENERAL FUND OF THE STATE TO OFFSET THE COST OF FINANCING THE ENFORCEMENT OF THIS SUBTITLE.~~

~~3-508.~~

~~(a) An employer may not:~~

~~(1) willfully violate this subtitle;~~

~~(2) PAY OR AGREE TO PAY AN EMPLOYEE IN A MANNER THAT VIOLATES THIS SUBTITLE;~~

~~(3) HINDER OR DELAY THE COMMISSIONER OR AN AUTHORIZED REPRESENTATIVE OF THE COMMISSIONER IN THE ENFORCEMENT OF THIS SUBTITLE; OR~~

~~(4) TAKE ADVERSE ACTION OR OTHERWISE DISCRIMINATE AGAINST AN EMPLOYEE BECAUSE:~~

~~(I) THE EMPLOYEE:~~

~~1. MAKES A COMPLAINT:~~

~~A. THAT THE EMPLOYEE HAS NOT BEEN PAID IN ACCORDANCE WITH THIS SUBTITLE; OR~~

~~B. IN GOOD FAITH, THAT THE EMPLOYER ENGAGED IN CONDUCT THAT VIOLATES THIS SUBTITLE;~~

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

~~3. HAS PARTICIPATED OR TESTIFIED, OR IS PREPARING TO TESTIFY, IN AN INVESTIGATION OR ACTION UNDER THIS SUBTITLE OR A PROCEEDING RELATED TO THE SUBJECT OF THIS SUBTITLE;~~

~~4. ASSISTED ANOTHER EMPLOYEE IN MAKING A COMPLAINT RELATED TO VIOLATIONS OF THIS SUBTITLE;~~

~~5. HAS BEEN INFORMED OR INFORMED ANOTHER EMPLOYEE ABOUT THEIR RIGHTS UNDER THIS SUBTITLE; OR~~

~~6. OPPOSED ANY UNLAWFUL PRACTICE UNDER THIS SUBTITLE; OR~~

~~(II) THE EMPLOYER BELIEVES THE EMPLOYEE MAY TAKE AN ACTION DESCRIBED IN ITEM (I) OF THIS ITEM.~~

~~(B) ADVERSE ACTION PROHIBITED UNDER SUBSECTION (A)(4) OF THIS SECTION INCLUDES:~~

~~(1) DISCHARGE;~~

- ~~(2) DEMOTION;~~
- ~~(3) THREATENING THE EMPLOYEE WITH DISCHARGE OR DEMOTION OR ANY OTHER ADVERSE ACTION;~~
- ~~(4) BLACKLISTING;~~
- ~~(5) A REDUCTION OR CHANGE IN WORK HOURS;~~
- ~~(6) REPORTING OR THREATENING TO REPORT THE SUSPECTED CITIZENSHIP OR IMMIGRATION STATUS OF AN EMPLOYEE, A FORMER EMPLOYEE, OR A FAMILY MEMBER OF AN EMPLOYEE OR A FORMER EMPLOYEE TO A FEDERAL, STATE, OR LOCAL AGENCY BECAUSE THE EMPLOYEE OR FORMER EMPLOYEE EXERCISED OR ATTEMPTED TO EXERCISE A RIGHT UNDER THIS SUBTITLE; AND~~
- ~~(7) ANY OTHER RETALIATORY ACTION AGAINST AN EMPLOYEE OR ANOTHER INDIVIDUAL FOR EXERCISING OR ATTEMPTING TO EXERCISE ANY RIGHT UNDER THIS SUBTITLE THAT RESULTS IN A CHANGE TO THE TERMS OR CONDITIONS OF EMPLOYMENT THAT WOULD DISSUADE A REASONABLE EMPLOYEE FROM MAKING A COMPLAINT, BRINGING AN ACTION, OR TESTIFYING IN AN ACTION UNDER THIS SUBTITLE.~~

~~[(b)](C) An employee may not knowingly make to a governmental unit or official of a governmental unit a false statement with respect to any investigation or proceeding under this subtitle, with the intent that the governmental unit or official consider or otherwise act in connection with the statement.~~

~~[(e)](D) (1) (I) An employer who violates subsection (a) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000.~~

~~(II) IN ADDITION TO SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE ENFORCEMENT PROVISIONS, CIVIL PENALTIES, AND REMEDIES PROVIDED UNDER § 3-428 OF THIS TITLE APPLY TO VIOLATIONS OF SUBSECTION (A)(4) OF THIS SECTION IN THE SAME MANNER AS VIOLATIONS OF § 3-428(B) OF THIS TITLE.~~

~~(III) EACH CIVIL PENALTY ASSESSED UNDER THIS PARAGRAPH SHALL BE PAID TO THE GENERAL FUND OF THE STATE TO OFFSET THE COST OF FINANCING THE ENFORCEMENT OF THIS SUBTITLE.~~

~~(2) An employee who violates subsection [(b)](C) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019.

Gubernatorial Veto Override, March 28, 2019.