

HOUSE BILL 330

K3, P2
HB 1330/11 – ECM

3lr1729
CF 3lr2113

By: **Delegates Feldman, Hucker, Barkley, Barnes, Braveboy, Carr, Frush, Howard, Hubbard, Ivey, K. Kelly, Luedtke, McHale, Mizeur, Niemann, V. Turner, Valderrama, Valentino–Smith, Waldstreicher, and Zucker**

Introduced and read first time: January 24, 2013

Assigned to: Economic Matters

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 17–801 through 17–808 to be under the new subtitle “Subtitle 8.
19 Construction Safety and Health Training”

20 Annotated Code of Maryland

21 (2009 Replacement Volume and 2012 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**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **SUBTITLE 8. CONSTRUCTION SAFETY AND HEALTH TRAINING.**

2 **17-801.**

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

5 **(B) “COMMISSIONER” MEANS THE COMMISSIONER OF LABOR AND**
6 **INDUSTRY.**

7 **(C) “CONSTRUCTION” HAS THE MEANING STATED IN § 17-201(D) OF**
8 **THIS TITLE.**

9 **(D) “CONSTRUCTION SAFETY TRAINING” MEANS A LIVE PROGRAM OR**
10 **COURSE OF CONSTRUCTION SAFETY TRAINING THAT CONFORMS TO THE**
11 **30-HOUR CONSTRUCTION INDUSTRY SAFETY OUTREACH TRAINING PROGRAM**
12 **ESTABLISHED BY THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION**
13 **OF THE UNITED STATES DEPARTMENT OF LABOR.**

14 **(E) “FALSE STATEMENT” MEANS A STATEMENT THAT IS**
15 **INTENTIONALLY FALSE OR MADE WITH RECKLESS DISREGARD FOR TRUTH OR**
16 **ACCURACY.**

17 **(F) “KNOWINGLY” MEANS ACTUAL KNOWLEDGE, DELIBERATE**
18 **IGNORANCE, OR RECKLESS DISREGARD FOR THE TRUTH.**

19 **(G) “PUBLIC BODY” HAS THE MEANING STATED IN § 17-201(I) OF THIS**
20 **TITLE.**

21 **(H) “PUBLIC WORK” HAS THE MEANING STATED IN § 17-201(J) OF THIS**
22 **TITLE.**

23 **(I) “PUBLIC WORK CONTRACT” HAS THE MEANING STATED IN §**
24 **17-201(K) OF THIS TITLE.**

25 **17-802.**

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

28 **17-803.**

29 **A CONTRACTOR ON A PUBLIC WORK CONTRACT SHALL:**

1 (1) ENSURE THAT ALL INDIVIDUALS PERFORMING MANUAL WORK
2 AT THE JOB SITE UNDER THE PUBLIC WORK CONTRACT HAVE COMPLETED
3 SUCCESSFULLY CONSTRUCTION SAFETY TRAINING OR WILL HAVE COMPLETED
4 SUCCESSFULLY THE TRAINING BEFORE WORKING ON THE CONTRACT;

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

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

12 **17-804.**

13 (A) BEFORE BEGINNING WORK ON A PUBLIC WORK CONTRACT, A
14 CONTRACTOR SHALL SUBMIT A CERTIFICATION OF COMPLETION OF THE
15 CONSTRUCTION SAFETY TRAINING COURSE TO THE PUBLIC BODY RESPONSIBLE
16 FOR THE CONTRACT ATTESTING THAT ALL INDIVIDUALS WORKING ON THE SITE,
17 INCLUDING SUBCONTRACTORS, MEET OR WILL MEET THE SAFETY
18 QUALIFICATIONS REQUIRED UNDER § 17-803 OF THIS SUBTITLE.

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

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

25 **17-805.**

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

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

1 **(C) (1) ON NOTIFICATION, THE PUBLIC BODY SHALL WITHHOLD**
2 **FROM PAYMENT DUE THE CONTRACTOR OR SUBCONTRACTOR AN AMOUNT**
3 **SUFFICIENT TO SATISFY A LIABILITY OF A CONTRACTOR OR SUBCONTRACTOR**
4 **FOR LIQUIDATED DAMAGES, IN ACCORDANCE WITH § 17-806 OF THIS SUBTITLE,**
5 **PENDING A FINAL ORDER.**

6 **(2) IF A SUBCONTRACTOR IS RESPONSIBLE FOR A VIOLATION OF**
7 **THIS SUBTITLE, THE CONTRACTOR:**

8 **(I) MAY WITHHOLD FROM PAYMENT TO THE**
9 **SUBCONTRACTOR AN AMOUNT EQUAL TO THE AMOUNT WITHHELD FROM THE**
10 **CONTRACTOR UNDER PARAGRAPH (1) OF THIS SUBSECTION; OR**

11 **(II) IF PAYMENT HAS BEEN MADE TO THE SUBCONTRACTOR,**
12 **MAY SUE TO RECOVER THAT AMOUNT.**

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

15 **(2) THE NOTICE OF HEARING SHALL:**

16 **(I) INCLUDE A STATEMENT OF FACTS DISCLOSED IN THE**
17 **INVESTIGATION;**

18 **(II) INCLUDE THE TIME AND PLACE OF THE HEARING; AND**

19 **(III) BE SERVED ON ALL INTERESTED PERSONS, INCLUDING**
20 **THE PUBLIC BODY.**

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

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

30 **(I) THE COMMISSIONER ORDERS REVIEW OF THE**
31 **PROPOSED DECISION; OR**

1 **(II) AN EMPLOYER SUBMITS TO THE COMMISSIONER A**
2 **WRITTEN REQUEST FOR REVIEW OF THE PROPOSED ORDER.**

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

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

9 **(7) ON ISSUANCE OF A FINAL ORDER, THE PUBLIC BODY, FROM**
10 **THE MONEY DUE THE CONTRACTOR OR SUBCONTRACTOR, SHALL SATISFY THE**
11 **OBLIGATION OF THE CONTRACTOR OR SUBCONTRACTOR TO PAY LIQUIDATED**
12 **DAMAGES IN ACCORDANCE WITH § 17-806 OF THIS SUBTITLE.**

13 **17-806.**

14 **(A) A CONTRACTOR OR SUBCONTRACTOR IS LIABLE TO THE STATE**
15 **GENERAL FUND FOR LIQUIDATED DAMAGES OF NO LESS THAN \$250 PER DAY**
16 **AND NO MORE THAN \$500 PER DAY FOR EACH EMPLOYEE OF A CONTRACTOR OR**
17 **SUBCONTRACTOR WHO IS NOT IN COMPLIANCE WITH THE CONSTRUCTION**
18 **SAFETY TRAINING REQUIREMENT OF § 17-803 OF THIS SUBTITLE.**

19 **(B) A CONTRACTOR OR SUBCONTRACTOR WHO IS FOUND TO HAVE**
20 **KNOWINGLY SUBMITTED A FALSE STATEMENT OF CERTIFICATION OF**
21 **COMPLETION OF THE CONSTRUCTION SAFETY TRAINING REQUIREMENT OF §**
22 **17-803 OF THIS SUBTITLE IS LIABLE TO THE STATE GENERAL FUND FOR**
23 **LIQUIDATED DAMAGES OF NO LESS THAN \$1,000 PER DAY AND NO MORE THAN**
24 **\$3,000 PER DAY FOR EACH DAY THAT THE CONTRACTOR OR SUBCONTRACTOR**
25 **OPERATED UNDER A FALSE STATEMENT OF CERTIFICATION.**

26 **17-807.**

27 **(A) A CONTRACTOR OR SUBCONTRACTOR WHO HAS BEEN FOUND TO**
28 **HAVE VIOLATED § 17-803 OF THIS SUBTITLE ON TWO OR MORE OCCASIONS**
29 **SHALL BE PROHIBITED FROM ENTERING INTO A CONTRACT FOR CONSTRUCTION**
30 **OF A PUBLIC WORK DIRECTLY OR INDIRECTLY FOR A PERIOD OF 3 YEARS.**

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

1 **17-808.**

2 **THE COMMISSIONER MAY ADOPT REGULATIONS NECESSARY TO**
3 **ADMINISTER THE PROVISIONS OF THIS SUBTITLE.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 July 1, 2013.