

SENATE BILL 107

K3

(11r1179)

ENROLLED BILL

— Finance/Economic Matters —

Introduced by **Senator Hayes**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

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

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.

Italics indicate opposite chamber/conference committee amendments.



1 certain materials for certain employers; requiring the Commissioner to provide
 2 certain materials to certain employers under certain circumstances; requiring an
 3 employer to keep posted in each place of employment certain materials in a certain
 4 manner; requiring employers to keep certain records for a certain period of time;
 5 requiring the Commissioner to take certain enforcement actions; providing for the
 6 confidentiality of certain records and statements; authorizing a certain person to file
 7 a complaint in circuit court within a certain time period under certain circumstances;
 8 requiring that a certain complaint be served on the Commissioner; requiring the
 9 court to make a certain determination under certain circumstances; authorizing
 10 certain employees to bring a certain action under certain circumstances; authorizing
 11 the Commissioner to take certain actions regarding certain claims under certain
 12 circumstances; providing that a certain agreement is not a defense for certain
 13 purposes; requiring a court to make certain awards to certain employees under
 14 certain circumstances; prohibiting certain employers and employees from taking
 15 certain actions; establishing a certain penalty; prohibiting a certain conviction of a
 16 certain employer except under certain circumstances; requiring the Commissioner
 17 to enforce certain provisions of law; authorizing the Commissioner to conduct a
 18 certain investigation under certain circumstances; establishing an exemption under
 19 the Wage and Hour Law for a certain covered employee; ~~establishing an exemption~~
 20 ~~under the Living Wage Law for a certain covered employee;~~ requiring the Port of
 21 Baltimore to conduct a certain study and report to the Governor and the General
 22 Administration to conduct a certain study and report to the Governor and the
 23 General Assembly on or before a certain date; providing for the application of certain
 24 provisions of this Act; defining certain terms; and generally relating to wages paid
 25 at heightened security interest locations.
 26

27 BY repealing and reenacting, with amendments,
 28 Article – Labor and Employment
 29 Section 3–102 ~~and~~ 3–403(13) and (14), and 3–419
 30 Annotated Code of Maryland
 31 (2016 Replacement Volume and 2020 Supplement)

32 BY adding to
 33 Article – Labor and Employment
 34 Section 3–103(m) and 3–403(15); and ~~3–1501~~ 3–1601 through ~~3–1511~~ 3–1611 to be
 35 under the new subtitle “Subtitle ~~15~~ 16. Secure Maryland Wage Act”
 36 Annotated Code of Maryland
 37 (2016 Replacement Volume and 2020 Supplement)

38 ~~BY repealing and reenacting, with amendments,~~
 39 ~~Article – State Finance and Procurement~~
 40 ~~Section 18–102~~
 41 ~~Annotated Code of Maryland~~
 42 ~~(2015 Replacement Volume and 2020 Supplement)~~

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

3 **Article – Labor and Employment**

4 3–102.

5 (a) In addition to any duties set forth elsewhere, the Commissioner shall:

6 (1) enforce Subtitle 2 of this title;

7 (2) carry out Subtitle 3 of this title;

8 (3) enforce Subtitle 4 of this title;

9 (4) enforce Subtitle 9 of this title; [and]

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

11 (6) enforce a local minimum wage law.

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

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

17 3–103.

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

21 3–403.

22 This subtitle does not apply to an individual who:

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

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

27 (i) the individual:

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

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

5 (ii) the individual:

6 1. is under the age of 17;

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

9 3. is paid at the same rate that an employee who is at least
10 17 years old is paid on the same farm; **OR**

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

13 3-419.

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

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

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

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

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

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

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

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

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

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

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

12 **SUBTITLE ~~15~~ 16. SECURE MARYLAND WAGE ACT.**

13 **~~3-1501. 3-1601.~~**

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

16 (B) (1) "COVERED EMPLOYEE" MEANS ANY INDIVIDUAL EMPLOYED TO
17 PERFORM WORK AT A HEIGHTENED SECURITY INTEREST LOCATION WHO IS A
18 NONEXEMPT EMPLOYEE AS DESCRIBED IN THE FEDERAL FAIR LABOR STANDARDS
19 ACT.

20 (2) "COVERED EMPLOYEE" DOES NOT INCLUDE AN INDIVIDUAL
21 EMPLOYED TO PERFORM WORK AT A HEIGHTENED SECURITY INTEREST LOCATION
22 BY:

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

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

27 (III) AN ON-AIRPORT OR OFF-AIRPORT MOTOR VEHICLE RENTAL
28 COMPANY, OR ANY OTHER COMPANY INVOLVED IN MOTOR VEHICLE RENTAL
29 OPERATIONS.

30 (C) (1) "EMPLOY" MEANS TO ENGAGE AN INDIVIDUAL TO WORK.

31 (2) "EMPLOY" INCLUDES:

32 (I) ALLOWING AN INDIVIDUAL TO WORK; AND

1 (II) INSTRUCTING AN INDIVIDUAL TO BE PRESENT AT A WORK
2 SITE.

3 (D) (1) "EMPLOYER" INCLUDES A PERSON WHO ACTS DIRECTLY OR
4 INDIRECTLY IN THE INTEREST OF ANOTHER EMPLOYER WITH AN EMPLOYEE.

5 (2) "EMPLOYER" DOES NOT INCLUDE:

6 (I) AN EMPLOYER THAT PROVIDES CONSTRUCTION SERVICES
7 AS DEFINED IN § 3-901 OF THIS TITLE; OR

8 (II) AN AIRLINE.

9 (E) "HEIGHTENED SECURITY INTEREST LOCATION" MEANS:

10 (1) BALTIMORE-WASHINGTON INTERNATIONAL THURGOOD
11 MARSHALL AIRPORT; OR

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

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

14 (F) "WAGE" MEANS ALL COMPENSATION THAT IS DUE TO AN EMPLOYEE FOR
15 EMPLOYMENT.

16 ~~3-1502.~~ 3-1602.

17 (A) THE GENERAL ASSEMBLY FINDS THAT:

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

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

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

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

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

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

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

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

13 ~~3-1503.~~ 3-1603.

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

17 (B) THIS SUBTITLE DOES NOT DIMINISH:

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

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

25 ~~3-1504.~~ 3-1604.

26 (A) (1) ~~FOR THE 12-MONTH PERIOD BEGINNING JANUARY 1, 2022, AND~~
27 ~~FOR EACH SUBSEQUENT 12-MONTH PERIOD, AN EMPLOYER SHALL PAY A COVERED~~
28 ~~EMPLOYEE WAGES, OR ANY COMBINATION OF WAGES AND BENEFITS, THAT IS NOT~~
29 ~~LESS THAN THE COMBINED AMOUNT OF THE WAGE AND FRINGE BENEFIT RATE IN~~
30 ~~EFFECT ON SEPTEMBER 1 OF THE IMMEDIATELY PRECEDING YEAR FOR THE GUARD~~
31 ~~I CLASSIFICATION FOR THE APPLICABLE COUNTY ESTABLISHED BY THE UNITED~~

~~1 STATES SECRETARY OF LABOR UNDER §§ 6701 THROUGH 6707 OF THE FEDERAL
2 McNAMARA O'HARA SERVICE CONTRACT ACT OF 1965.~~

~~3 (2) PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSTRUED
4 TO PROHIBIT AN EMPLOYER FROM BEGINNING TO PAY A COVERED EMPLOYEE THE
5 WAGE RATE IN EFFECT ON SEPTEMBER 1 BEFORE REQUIRED TO UNDER PARAGRAPH
6 (1) OF THIS SUBSECTION AN EMPLOYER SHALL PAY A COVERED EMPLOYEE A WAGE
7 RATE:~~

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

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

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

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

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

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

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

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

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

28 B. PAYING THE BALANCE IN CASH; OR

29 3. PAYING THE ENTIRE SUPPLEMENT BENEFIT IN CASH.

30 (B) AN EMPLOYER SHALL PAY AN OVERTIME WAGE OF AT LEAST 1.5 TIMES
31 THE USUAL HOURLY WAGE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION ON

1 THE BASIS OF EACH HOUR OVER 40 HOURS THAT A COVERED EMPLOYEE WORKS
2 DURING 1 WORKWEEK.

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

5 (D) (1) AN EMPLOYER MAY NOT INCLUDE A TIP CREDIT AMOUNT UNDER
6 § 3-419 OF THIS TITLE AS PART OF THE WAGE OF A COVERED EMPLOYEE WHOSE
7 DUTIES INCLUDE PROVIDING PASSENGERS WITH WHEELCHAIR ASSISTANCE,
8 INCLUDING A WHEELCHAIR AGENT OR A PASSENGER SERVICE AGENT.

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

12 ~~3-1505.~~ 3-1605.

13 (A) THE COMMISSIONER:

14 (1) SHALL CREATE AND MAKE AVAILABLE A SUMMARY OF THIS
15 SUBTITLE; AND

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

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

20 (1) A COPY OF THIS SUBTITLE;

21 (2) A SUMMARY OF THIS SUBTITLE;

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

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

25 (C) EACH EMPLOYER SHALL KEEP POSTED CONSPICUOUSLY IN EACH PLACE
26 OF EMPLOYMENT:

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

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

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

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

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

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

8 (3) THE AMOUNT THAT IS PAID EACH PAY PERIOD TO EACH
9 EMPLOYEE;

10 (4) THE HOURS THAT EACH EMPLOYEE WORKS EACH DAY AND
11 WORKWEEK; AND

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

14 ~~3-1507.~~ 3-1607.

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

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

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

21 (3) REQUIRE EACH EMPLOYER TO:

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

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

27 (B) EACH RECORD OR STATEMENT THAT THE COMMISSIONER OR AN
28 AUTHORIZED REPRESENTATIVE OF THE COMMISSIONER OBTAINS UNDER

1 SUBSECTION (A) OF THIS SECTION IS CONFIDENTIAL AND MAY BE SHOWN ONLY TO
2 THE COMMISSIONER OR A COURT.

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

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

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

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

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

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

18 ~~3-1509.~~ 3-1609.

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

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

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

27 (3) COUNSEL FEES AND OTHER COSTS.

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

30 (1) TAKE AN ASSIGNMENT OF THE CLAIM IN TRUST FOR THE COVERED
31 EMPLOYEE;

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

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

4 **(C) THE AGREEMENT OF A COVERED EMPLOYEE TO WORK FOR LESS THAN**
5 **THE WAGE TO WHICH THE COVERED EMPLOYEE IS ENTITLED UNDER THIS SUBTITLE**
6 **IS NOT A DEFENSE TO AN ACTION UNDER THIS SECTION.**

7 **(D) (1) IF A COURT DETERMINES THAT A COVERED EMPLOYEE IS**
8 **ENTITLED TO RECOVERY IN AN ACTION UNDER THIS SECTION, THE COURT SHALL**
9 **AWARD TO THE COVERED EMPLOYEE:**

10 **(I) THE DIFFERENCE BETWEEN THE WAGE PAID TO THE**
11 **COVERED EMPLOYEE AND THE WAGE REQUIRED UNDER THIS SUBTITLE;**

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

16 **(III) REASONABLE COUNSEL FEES AND OTHER COSTS.**

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

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

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

25 ~~**3-1510.**~~ **3-1610.**

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

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

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

3 **(B) (1) AN EMPLOYER MAY NOT:**

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

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

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

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

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

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

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

18 **(2) ADVERSE ACTION PROHIBITED UNDER PARAGRAPH (1) OF THIS**
19 **SUBSECTION INCLUDES:**

20 **(I) DISCHARGE;**

21 **(II) DEMOTION;**

22 **(III) THREATENING THE COVERED EMPLOYEE WITH DISCHARGE**
23 **OR DEMOTION; AND**

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

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

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

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

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

7 (D) A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION IS GUILTY
8 OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING
9 \$1,000.

10 (E) AN EMPLOYER MAY NOT BE CONVICTED UNDER THIS SECTION UNLESS
11 THE EVIDENCE DEMONSTRATES THAT THE EMPLOYER HAD KNOWLEDGE OF THE
12 RELEVANT COMPLAINT, TESTIMONY, OR ACTION FOR WHICH THE PROSECUTION FOR
13 RETALIATION IS SOUGHT.

14 ~~3-1511.~~ 3-1611.

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

16 ~~Article State Finance and Procurement~~

17 ~~18-102.~~

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

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

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

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

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

27 (1) (I) ~~for services needed immediately to prevent or respond to an~~
28 ~~imminent threat to public health or safety;~~

29 (2) (II) ~~with a public service company;~~

1 ~~[(3)] (III) with a nonprofit organization;~~

2 ~~[(4)] (IV) between units; or~~

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

4 ~~(2) THIS TITLE DOES NOT APPLY TO A COVERED EMPLOYEE UNDER~~
 5 ~~THE SECURE MARYLAND WAGE ACT.~~

6 ~~(e) If the unit responsible for a State contract determines that application of this~~
 7 ~~title would conflict with any applicable federal program requirement, this title does not~~
 8 ~~apply to the contract or program.~~

9 ~~(d) The head of the unit responsible for a State contract subject to this title shall~~
 10 ~~determine if contract services valued at 50% or more of the total value of the contract will~~
 11 ~~be performed in the Tier 1 area or the Tier 2 area and shall provide that determination on~~
 12 ~~the invitation for a bid.~~

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

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

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

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

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

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

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

27 and

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

1 working at Ronald Reagan Washington National Airport and Dulles International Airport;
2 and

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

5 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2021.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.