

HOUSE BILL 504

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By: **Delegates Rosenberg, Mizeur, Oaks, Pena–Melnik, and Reznik**

Introduced and read first time: February 1, 2010

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Employment Discrimination – Unlawful Employment Practices – Motivating**
3 **Factor**

4 FOR the purpose of clarifying that an unlawful employment practice is established
5 when a certain classification is a motivating factor for any employment practice,
6 even though other factors also motivated the practice; providing that a certain
7 Supreme Court ruling is not to be applied in any cases brought under certain
8 provisions of law; and generally relating to unlawful employment practices.

9 BY repealing and reenacting, with amendments,
10 Article – State Government
11 Section 20–607
12 Annotated Code of Maryland
13 (2009 Replacement Volume)

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

16 **Article – State Government**

17 20–607.

18 (a) For purposes of this subtitle, an unlawful employment practice occurs,
19 with respect to discrimination in compensation in violation of this subtitle, when:

20 (1) a discriminatory compensation decision or other practice is
21 adopted;

22 (2) an individual becomes subject to a discriminatory compensation
23 decision or other practice; or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (3) an individual is affected by application of a discriminatory
2 compensation decision or other practice, including each time wages, benefits, or other
3 compensation is paid, resulting wholly or partly from the discriminatory compensation
4 decision or other practice.

5 (b) In addition to any relief authorized by this title, liability may accrue and
6 an aggrieved person may obtain relief as provided in § 20–1009 of this title, including
7 recovery of back pay for up to 2 years preceding the filing of the complaint, where the
8 unlawful employment practice that has occurred during the complaint filing period is
9 similar or related to an unlawful employment practice with regard to discrimination in
10 compensation that occurred outside the time for filing a complaint.

11 **(C) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, AN**
12 **UNLAWFUL EMPLOYMENT PRACTICE IS ESTABLISHED WHEN THE COMPLAINANT**
13 **DEMONSTRATES THAT RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN,**
14 **MARITAL STATUS, SEXUAL ORIENTATION, GENETIC INFORMATION, OR**
15 **DISABILITY WAS A MOTIVATING FACTOR FOR ANY EMPLOYMENT PRACTICE,**
16 **EVEN THOUGH OTHER FACTORS ALSO MOTIVATED THE PRACTICE.**

17 SECTION 2. AND BE IT FURTHER ENACTED, That the decision of the
18 Supreme Court in *Gross v. FBL Financial Services, Inc.*, 557 U.S. __ (2009), that a jury
19 instruction that age need only be one of multiple factors motivating an employment
20 practice is never appropriate in an Age Discrimination in Employment Act case, is not
21 to be applied to any cases brought under Title 20, Subtitle 6 of the State Government
22 Article of the Annotated Code of Maryland.

23 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2010.