

# HOUSE BILL 725

K3, R2

4r1901  
CF 4r2415

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By: **Delegates Barnes, Braveboy, Carter, Conaway, Frush, Gilchrist, Glenn, Healey, Howard, Hubbard, Hucker, Ivey, Mizeur, Niemann, Olszewski, Pena–Melnyk, Reznik, B. Robinson, Stukes, Swain, Tarrant, V. Turner, Vaughn, Walker, and A. Washington**

Introduced and read first time: January 31, 2014

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **State–Owned Airport Concessionaire Employees – Payment of Wages and**  
3 **Other Rights**

4 FOR the purpose of requiring certain employers operating food, beverage, or retail  
5 operations within certain airports to pay a certain wage to certain employees;  
6 requiring a certain wage to increase by a certain amount under certain  
7 circumstances; requiring the Maryland Aviation Administration to determine a  
8 certain wage by a certain date and post certain information on its Web site;  
9 providing that certain parties that dispute a certain wage determination may  
10 appeal the determination to the Commissioner of Labor and Industry; requiring  
11 the Commissioner to issue a certain final administrative determination;  
12 requiring the Administration to post a certain decision by a certain date;  
13 requiring the payment of a certain wage supplement or a certain wage to  
14 certain employees under certain circumstances; requiring the Administration to  
15 reimburse certain employers under certain circumstances; requiring the  
16 Administration to terminate a certain lease by a certain date under certain  
17 circumstances; providing for the requirements of certain leases; requiring the  
18 Commissioner to enforce certain provisions of this Act in a certain manner;  
19 authorizing certain employees to bring an action for a violation of certain  
20 provisions of this Act under certain circumstances; authorizing the  
21 Commissioner to adopt certain regulations; prohibiting certain actions against  
22 certain employees; providing for the construction of certain provisions of this  
23 Act; making the provisions of this Act severable; providing for the application of  
24 this Act; defining certain terms; and generally relating to the rights of  
25 employees employed by concessionaires of State–owned airports.

26 BY adding to  
27 Article – Transportation

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 5–1401 through 5–1408 to be under the new subtitle “Subtitle 14.  
2 State–Owned Airport Concessionaire Employees”  
3 Annotated Code of Maryland  
4 (2008 Replacement Volume and 2013 Supplement)

5 Preamble

6 WHEREAS, Operations at the Baltimore–Washington International Thurgood  
7 Marshall Airport are funded by the taxpayers and traveling public; and

8 WHEREAS, In 2004, the Maryland Aviation Administration entered into a  
9 lease with AIRMALL USA, expiring in 2022, for the development and management of  
10 the concessions program at the Baltimore–Washington International Thurgood  
11 Marshall Airport; and

12 WHEREAS, Most workers employed in these concessions operations are paid  
13 significantly less than the average wage paid by the Maryland Aviation  
14 Administration to its own employees working at the airport; now, therefore,

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

17 **Article – Transportation**

18 **SUBTITLE 14. STATE–OWNED AIRPORT CONCESSIONAIRE EMPLOYEES.**

19 **5–1401.**

20 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**  
21 **INDICATED.**

22 **(B) “COMMISSIONER” MEANS THE COMMISSIONER OF LABOR AND**  
23 **INDUSTRY.**

24 **(C) (1) “WAGE” INCLUDES THE COMBINED VALUE OF WAGES AND**  
25 **BENEFITS, INCLUDING HEALTH CARE AND PENSION BENEFITS.**

26 **(2) “WAGE” DOES NOT INCLUDE BONUSES, GRATUITIES, OR**  
27 **SERVICE CHARGE DISTRIBUTIONS.**

28 **5–1402.**

29 **THIS SUBTITLE APPLIES TO EMPLOYERS OPERATING A FOOD, BEVERAGE,**  
30 **OR RETAIL BUSINESS WITHIN THE BALTIMORE–WASHINGTON INTERNATIONAL**  
31 **THURGOOD MARSHALL AIRPORT OR ANY OTHER STATE–OWNED AIRPORT.**

1 5-1403.

2 (A) (1) BEGINNING NOVEMBER 1, 2014, EACH EMPLOYER SHALL PAY  
3 ITS EMPLOYEES A WAGE EQUAL TO AT LEAST THE AVERAGE WAGE DETERMINED  
4 AND POSTED BY THE ADMINISTRATION IN ACCORDANCE WITH SUBSECTION (B)  
5 OF THIS SECTION.

6 (2) IF DURING THE 12-MONTH PERIOD FOLLOWING THE  
7 DETERMINATION AND POSTING OF THE AVERAGE WAGE UNDER SUBSECTION (B)  
8 OF THIS SECTION THE AVERAGE WAGE INCREASES, BY THE NEXT NOVEMBER 1,  
9 THE REQUIRED WAGE SHALL INCREASE BY AN EQUAL AMOUNT.

10 (B) (1) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE  
11 ADMINISTRATION SHALL:

12 (I) DETERMINE THE AVERAGE WAGE PAID BY THE  
13 ADMINISTRATION TO EMPLOYEES IN THE ADMINISTRATION'S LOWEST PAID JOB  
14 CLASSIFICATION; AND

15 (II) POST THE AVERAGE WAGE AND SUPPORTING DATA ON  
16 THE ADMINISTRATION'S WEB SITE.

17 (2) (I) A PARTY THAT DISPUTES THE WAGE DETERMINATION  
18 UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY APPEAL THE  
19 DETERMINATION TO THE COMMISSIONER.

20 (II) AFTER REVIEW BY THE COMMISSIONER, THE  
21 COMMISSIONER SHALL ISSUE A FINAL ADMINISTRATIVE DETERMINATION.

22 (3) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE  
23 ADMINISTRATION SHALL POST ITS DECISION TO PAY WAGE SUPPLEMENTS  
24 UNDER § 5-1404(1) OF THIS SUBTITLE.

25 5-1404.

26 IF, DURING ANY PERIOD BEFORE TERMINATION OF A LEASE UNDER §  
27 5-1405 OF THIS SUBTITLE, THE EMPLOYER SUBJECT TO THE LEASE FAILS TO  
28 PAY THE WAGE REQUIRED UNDER § 5-1403 OF THIS SUBTITLE, THE  
29 ADMINISTRATION SHALL:

1           **(1) PAY A WAGE SUPPLEMENT TO EACH EMPLOYEE TO INCREASE**  
2 **THE EMPLOYEE'S WAGE TO THE AVERAGE WAGE REQUIRED UNDER § 5-1403(A)**  
3 **OF THIS SUBTITLE; OR**

4           **(2) (I) REQUIRE THE EMPLOYER TO PAY THE WAGE**  
5 **SUPPLEMENTS DESCRIBED IN ITEM (1) OF THIS SECTION; AND**

6                   **(II) REIMBURSE THE EMPLOYER FOR THE WAGE**  
7 **SUPPLEMENTS PAID.**

8 **5-1405.**

9           **(A) ON APRIL 1, 2017, IF THE ADMINISTRATION IS PAYING A WAGE**  
10 **SUPPLEMENT OR REIMBURSING AN EMPLOYER UNDER § 5-1404 OF THIS**  
11 **SUBTITLE, THE ADMINISTRATION SHALL TERMINATE ITS LEASE WITH**  
12 **AIRMALL USA BY OCTOBER 21, 2017, AS PERMITTED IN ARTICLE III, TERM**  
13 **SECTION C, SUPPLEMENT NO. 2 TO LEASE AND CONCESSIONS CONTRACT NO.**  
14 **MAA-LC-04-001.**

15           **(B) ANY SUBSEQUENT CONCESSIONS LEASE ENTERED INTO BY THE**  
16 **ADMINISTRATION SHALL REQUIRE THAT EMPLOYERS PAY WAGES THAT COMPLY**  
17 **WITH § 5-1403 OF THIS SUBTITLE AND DO NOT REQUIRE THE ADMINISTRATION**  
18 **TO PAY WAGE SUPPLEMENTS OR REIMBURSE AN EMPLOYER UNDER § 5-1404 OF**  
19 **THIS SUBTITLE.**

20 **5-1406.**

21           **(A) THE COMMISSIONER SHALL ENFORCE THE PROVISIONS OF THIS**  
22 **SUBTITLE CONSISTENT WITH THE REQUIREMENTS OF §§ 18-104 THROUGH**  
23 **18-108 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

24           **(B) AN EMPLOYEE HAS A RIGHT OF ACTION FOR VIOLATIONS OF THIS**  
25 **SUBTITLE CONSISTENT WITH THE RIGHT OF ACTION UNDER § 18-109 OF THE**  
26 **STATE FINANCE AND PROCUREMENT ARTICLE.**

27           **(C) THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THE**  
28 **PROVISIONS OF THIS SUBTITLE.**

29 **5-1407.**

30           **A PERSON MAY NOT:**

1           **(1) TAKE ADVERSE ACTION OR DISCRIMINATE AGAINST AN**  
2 **EMPLOYEE BECAUSE THE EMPLOYEE EXERCISED IN GOOD FAITH THE RIGHTS**  
3 **PROTECTED UNDER THIS SUBTITLE; OR**

4           **(2) REDUCE AN EMPLOYEE'S TOTAL COMPENSATION OR ANY**  
5 **ELEMENT OF THE EMPLOYEE'S COMPENSATION, INCLUDING TAKING ANY**  
6 **ADVERSE ACTION AGAINST THE EMPLOYEE THAT MAY LEAD TO AN INCREASE IN**  
7 **COSTS TO THE EMPLOYEE FOR:**

8                   **(I) MEALS;**

9                   **(II) UNIFORMS; OR**

10                   **(III) PARKING.**

11 **5-1408.**

12           **THIS SUBTITLE MAY NOT BE CONSTRUED TO:**

13           **(1) PREEMPT, LIMIT, OR OTHERWISE AFFECT ANY OTHER LAW,**  
14 **REGULATION, OR CONTRACT THAT PROVIDES GREATER COMPENSATION OR**  
15 **EMPLOYEE PROTECTIONS THAT ARE MORE GENEROUS THAN REQUIRED UNDER**  
16 **THIS SUBTITLE; OR**

17           **(2) PRECLUDE THE COMMISSIONER OR ADMINISTRATION FROM**  
18 **ADOPTING ADDITIONAL EMPLOYEE PROTECTIONS AT THE**  
19 **BALTIMORE-WASHINGTON INTERNATIONAL THURGOOD MARSHALL AIRPORT**  
20 **OR ANY OTHER STATE-OWNED AIRPORT.**

21           SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this  
22 Act or the application thereof to any person or circumstance is held invalid for any  
23 reason in a court of competent jurisdiction, the invalidity does not affect other  
24 provisions or any other application of this Act which can be given effect without the  
25 invalid provision or application, and for this purpose the provisions of this Act are  
26 declared severable.

27           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be  
28 construed to apply retroactively and shall be applied to and interpreted to affect any  
29 adverse action against an employee on or after January 1, 2014.

30           SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
31 October 1, 2014.