

# SENATE BILL 883

K3, R2

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CF HB 725

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By: **Senators Pugh, Benson, and Ramirez**  
Introduced and read first time: January 31, 2014  
Assigned to: Finance

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## A BILL ENTITLED

AN ACT concerning

### **State-Owned Airport Concessionaire Employees – Payment of Wages and Other Rights**

FOR the purpose of requiring certain employers operating food, beverage, or retail operations within certain airports to pay a certain wage to certain employees; requiring a certain wage to increase by a certain amount under certain circumstances; requiring the Maryland Aviation Administration to determine a certain wage by a certain date and post certain information on its Web site; providing that certain parties that dispute a certain wage determination may appeal the determination to the Commissioner of Labor and Industry; requiring the Commissioner to issue a certain final administrative determination; requiring the Administration to post a certain decision by a certain date; requiring the payment of a certain wage supplement or a certain wage to certain employees under certain circumstances; requiring the Administration to reimburse certain employers under certain circumstances; requiring the Administration to terminate a certain lease by a certain date under certain circumstances; providing for the requirements of certain leases; requiring the Commissioner to enforce certain provisions of this Act in a certain manner; authorizing certain employees to bring an action for a violation of certain provisions of this Act under certain circumstances; authorizing the Commissioner to adopt certain regulations; prohibiting certain actions against certain employees; providing for the construction of certain provisions of this Act; making the provisions of this Act severable; providing for the application of this Act; defining certain terms; and generally relating to the rights of employees employed by concessionaires of State-owned airports.

BY adding to

Article – Transportation

Section 5–1401 through 5–1408 to be under the new subtitle “Subtitle 14.  
State-Owned Airport Concessionaire Employees”

Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2008 Replacement Volume and 2013 Supplement)

Preamble

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

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

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

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

**Article – Transportation**

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

**5–1401.**

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

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

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

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

**5–1402.**

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

**5–1403.**

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

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

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

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

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

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

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

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

5-1404.

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

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

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

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

**5-1405.**

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

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

**5-1406.**

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

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

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

**5-1407.**

**A PERSON MAY NOT:**

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

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

- (I) MEALS;**
- (II) UNIFORMS; OR**
- (III) PARKING.**

**5-1408.**

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

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

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

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

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

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