

Article - Labor and Employment

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§3-704.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Managerial employee” means an employee who:
- (i) is not covered by a collective bargaining agreement;
 - (ii) as primary duty of the employee, manages an enterprise or a unit of the enterprise that customarily is considered a department or subdivision of the enterprise;
 - (iii) customarily and regularly supervises at least 2 other employees in the enterprise or unit;
 - (iv) customarily and regularly exercises discretionary powers; and
 - (v) may hire or fire another employee or makes recommendations that affect the hiring, advancement, firing, or any other change in status of another employee.
- (3) “Part-time employee” means an employee who is employed for a workweek of less than 25 hours.
- (4) “Professional employee” means an employee whose primary duty is to work in a field that requires advanced knowledge that customarily is acquired by a prolonged course of specialized instruction and study.
- (b) (1) This subsection does not apply during an emergency that a federal, State, or local governmental authority declares.
- (2) An employee in a retail establishment may choose, as a day of rest, Sunday or the sabbath of the employee unless:
- (i) outside Wicomico County, the employee is a managerial employee, professional employee, or part-time employee; and
 - (ii) in Wicomico County, the employee is a managerial employee or professional employee.
- (3) An employee who chooses a day of rest:
- (i) shall give written notice to the employer; and
 - (ii) during the course of employment, may change the day of rest by

giving written notice of the change to the employer at least 30 days before its effective date.

(c) (1) This subsection does not apply to a managerial employee or professional employee or, outside Wicomico County, a part-time employee.

(2) If an employer compels an employee to work on the day of rest that the employee chooses under subsection (b) of this section, the employee is entitled to bring an action against the employer to recover 3 times the regular rate of pay of the employee for each hour the employee works on that day.

(d) This section may not be applied to abridge any right that a collective bargaining agreement grants to a part-time employee or other employee.

(e) This section does not affect the laws that relate to:

(1) the sale of alcoholic beverages on Sunday; or

(2) service of process on Sunday.

(f) An employer may not:

(1) discharge, discipline, discriminate against, or otherwise penalize an employee who chooses a day of rest; or

(2) require an applicant for employment who seeks a workweek of at least 25 hours to answer any question to identify the day that the applicant chooses as a day of rest.

(g) (1) Whenever the Commissioner determines that this section has been violated, the Commissioner shall:

(i) try to resolve any issue involved in the violation informally by mediation; or

(ii) ask the Attorney General to bring an action on behalf of the applicant or employee.

(2) The Attorney General may bring an action under this subsection in the county where the violation allegedly occurred for injunctive relief, damages, or other relief.

(h) (1) This subsection does not apply to an agent or supervisory employee of an employer who violates any provision of this section if the employer authorizes, directs, or otherwise causes the agent or supervisory employee to violate the provision.

(2) Outside Wicomico County, an employer who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine of not less

than \$250 or more than \$500.

(3) In Wicomico County, a person who violates any provision of this section is guilty of a misdemeanor and on conviction, for each employee who is caused, directed, permitted, or authorized to work:

- (i) for a first conviction, is subject to a fine not exceeding \$500; and
- (ii) for a second conviction, is subject to a fine not exceeding \$1,000.

(i) In Wicomico County, the State's Attorney may file a complaint to enjoin a violation of this section.

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