

HOUSE BILL 192

K3

5lr1466

By: **Delegate Serafini**

Introduced and read first time: January 30, 2015

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Occupational Safety and Health – Inspections and Assessments of Civil**
3 **Penalties – Limitations**

4 FOR the purpose of requiring, under certain circumstances, the Commissioner of Labor and
5 Industry or an authorized representative of the Commissioner to provide an
6 employer certain notice before inspecting a place of employment; prohibiting, under
7 certain circumstances, the Commissioner or an authorized representative of the
8 Commissioner from assessing a civil penalty against the employer for violations
9 found during certain inspections except under certain circumstances; making a
10 conforming change; and generally relating to occupational safety and health
11 inspections and assessments of civil penalties.

12 BY repealing and reenacting, with amendments,
13 Article – Labor and Employment
14 Section 5–208(a) and 5–209(d)
15 Annotated Code of Maryland
16 (2008 Replacement Volume and 2014 Supplement)

17 BY adding to
18 Article – Labor and Employment
19 Section 5–208.1
20 Annotated Code of Maryland
21 (2008 Replacement Volume and 2014 Supplement)

22 BY repealing and reenacting, without amendments,
23 Article – Labor and Employment
24 Section 5–209(a)
25 Annotated Code of Maryland
26 (2008 Replacement Volume and 2014 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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 5–208.

5 (a) [The] **SUBJECT TO § 5–208.1 OF THIS SUBTITLE, THE** Commissioner or
6 authorized representative of the Commissioner may enter a place of employment where
7 work is performed, without delay at any reasonable time, to:

8 (1) inspect the place of employment;

9 (2) investigate all pertinent apparatus, conditions, devices, equipment,
10 materials, and structures at the place of employment; and

11 (3) question privately an agent, employee, or employer.

12 **5–208.1.**

13 (A) **IF THE COMMISSIONER OR AN AUTHORIZED REPRESENTATIVE OF THE**
14 **COMMISSIONER HAS NOT INSPECTED A PLACE OF EMPLOYMENT IN THE**
15 **IMMEDIATELY PRECEDING 3 YEARS, THE COMMISSIONER OR AUTHORIZED**
16 **REPRESENTATIVE OF THE COMMISSIONER:**

17 (1) **SHALL PROVIDE THE EMPLOYER WRITTEN NOTICE OF AN INTENT**
18 **TO INSPECT THE PLACE OF EMPLOYMENT AT LEAST 14 DAYS BEFORE THE**
19 **INSPECTION IS TO OCCUR; AND**

20 (2) **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, MAY**
21 **NOT ASSESS A CIVIL PENALTY AGAINST THE EMPLOYER FOR A VIOLATION FOUND**
22 **DURING THE INSPECTION OR ANY INSPECTION CONDUCTED WITHIN 6 MONTHS**
23 **AFTER THAT INSPECTION.**

24 (B) **THE COMMISSIONER OR AN AUTHORIZED REPRESENTATIVE OF THE**
25 **COMMISSIONER MAY ASSESS A CIVIL PENALTY AGAINST AN EMPLOYER FOR A**
26 **VIOLATION THAT:**

27 (1) **PRESENTS AN IMMINENT DANGER TO AN EMPLOYEE; OR**

28 (2) **DUE TO A VIOLATION OF AN OCCUPATIONAL SAFETY AND HEALTH**
29 **STANDARD, PRESENTS A THREAT OF PHYSICAL HARM TO AN EMPLOYEE.**

30 5–209.

1 (a) An employee or authorized representative of employees may request
2 inspection of a place of employment if the employee or representative believes, in good faith,
3 that:

4 (1) there is imminent danger to an employee; or

5 (2) due to a violation of an occupational safety and health standard, there
6 is a threat of physical harm to an employee.

7 (d) (1) **[If] SUBJECT TO § 5-208.1 OF THIS SUBTITLE, IF** the Commissioner
8 determines that there are reasonable grounds, the Commissioner shall conduct an
9 inspection as soon as practical to determine whether the danger or threat exists.

10 (2) If the Commissioner determines that there are no reasonable grounds,
11 the Commissioner shall give the person who submitted the request written notice of that
12 determination.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2015.