

HOUSE BILL 1257

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CF 6lr3607

By: **Delegate Adams**

Introduced and read first time: February 12, 2016

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Workplace Fraud Provisions – Repeal**

3 FOR the purpose of repealing certain provisions of law concerning workplace fraud;
4 repealing a certain prohibition against certain employers failing to properly classify
5 individuals who perform work for remuneration paid by the employer; repealing
6 certain presumptions and evidentiary considerations; repealing a certain prohibition
7 against certain employers knowingly failing to properly classify individuals who
8 perform work for remuneration paid by the employer; repealing certain provisions of
9 law concerning workplace fraud investigations; repealing provisions of law
10 authorizing the Commissioner to enter a place of business or work site under certain
11 circumstances and to require certain employers to take certain actions; repealing
12 certain provisions of law concerning citations, filings of complaints, hearings, and
13 appeals of matters concerning workplace fraud; repealing certain penalties for
14 certain violations concerning workplace fraud; repealing certain provisions of law
15 concerning remedial compliance with certain laws after certain violations; repealing
16 certain provisions of law concerning certain awards of restitution or damages under
17 certain circumstances; repealing certain provisions of law concerning certain notice
18 of potential violations of law to certain units of State government under certain
19 circumstances; repealing certain provisions of law requiring cooperation by certain
20 units of State government; repealing provisions of law authorizing certain civil
21 actions for damages under certain circumstances; repealing certain provisions of law
22 prohibiting certain discriminatory actions against a certain individual under certain
23 circumstances; repealing certain provisions of law concerning violations committed
24 by certain employers engaged in contract work with certain public bodies; repealing
25 the requirement that certain employers retain certain records; repealing the
26 requirement that certain employers provide certain individuals notice of their status
27 and classification; repealing certain provisions of law prohibiting certain actions
28 engaged in for the purpose of violating certain provisions of law concerning the
29 proper classification of an individual as an employee; repealing a certain prohibition
30 against a person taking certain actions maliciously or in bad faith; repealing a
31 certain provision of law authorizing the recovery of attorneys' fees under certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 circumstances; repealing certain provisions of law requiring certain penalties to be
2 paid into the General Fund of the State; repealing certain provisions of law
3 concerning the costs of administering a certain workplace fraud program; repealing
4 a requirement that the Commissioner prepare certain reports; repealing certain
5 provisions of law requiring the Commissioner to adopt certain regulations; repealing
6 a requirement that the Workers' Compensation Commission pay certain costs;
7 making conforming changes; and generally relating to workplace fraud.

8 BY repealing

9 Article – Labor and Employment

10 Section 3–901 through 3–903, 3–903.1, 3–904 through 3–920, and the subtitle
11 “Subtitle 9. Workplace Fraud”; and 9–315.1

12 Annotated Code of Maryland

13 (2008 Replacement Volume and 2015 Supplement)

14 BY repealing and reenacting, with amendments,

15 Article – Labor and Employment

16 Section 2–107(g), 3–102(a), 3–103, 3–104, and 9–316(b)

17 Annotated Code of Maryland

18 (2008 Replacement Volume and 2015 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
20 That Section(s) 3–901 through 3–903, 3–903.1, 3–904 through 3–920, and the subtitle
21 “Subtitle 9. Workplace Fraud” of Article – Labor and Employment of the Annotated Code
22 of Maryland be repealed.

23 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
24 as follows:

25 **Article – Labor and Employment**

26 2–107.

27 (g) [Notwithstanding the funding provisions of § 3–919 of this article, for] **FOR**
28 fiscal year 2007 and for each subsequent fiscal year, the Governor shall include in the
29 annual budget bill submitted to the General Assembly an appropriation for the Division of
30 Labor and Industry sufficient to implement the provisions of this section, including
31 amounts not less than:

32 (1) \$315,000 for implementation of the Employment Standards Service
33 Unit in the Division; and

34 (2) \$385,000 for implementation of the Prevailing Wage Unit in the
35 Division.

36 3–102.

1 (a) In addition to any duties set forth elsewhere, the Commissioner shall:

2 (1) enforce Subtitle 2 of this title;

3 (2) carry out Subtitle 3 of this title;

4 (3) enforce Subtitle 4 of this title; **AND**

5 (4) [enforce Subtitle 9 of this title; and

6 (5)] enforce a local minimum wage law.

7 3-103.

8 (a) Except as otherwise provided in this section, the Commissioner may conduct
9 an investigation to determine whether a provision of this title has been violated on the
10 Commissioner's own initiative or may require a written complaint.

11 (b) The Commissioner may conduct an investigation under Subtitle 3 of this title,
12 on the Commissioner's own initiative or on receipt of a written complaint of an employee.

13 (c) The Commissioner may conduct an investigation to determine whether
14 Subtitle 5 of this title has been violated on receipt of a written complaint of an employee.

15 (d) The Commissioner may conduct an investigation to determine whether
16 Subtitle 6 of this title has been violated on receipt of a written complaint of a sales
17 representative.

18 (e) (1) The Commissioner may investigate whether § 3-701 of this title has
19 been violated on receipt of a written complaint of an applicant for employment.

20 (2) The Commissioner may investigate whether § 3-702 of this title has
21 been violated on receipt of a written complaint of an applicant for employment or an
22 employee.

23 (3) The Commissioner may investigate whether § 3-704 of this title has
24 been violated on receipt of a written complaint of an employee.

25 (4) The Commissioner may investigate whether § 3-710 of this title has
26 been violated on receipt of a written complaint of an employee as provided in § 3-710(d)(1)
27 of this title.

28 (5) The Commissioner may investigate whether § 3-711 of this title has
29 been violated on receipt of a written complaint of an employee as provided in § 3-711(d)(1)
30 of this title.

1 (6) The Commissioner may investigate whether § 3–712 of this title has
2 been violated on receipt of a written complaint of an employee or applicant.

3 (f) (1) The Commissioner may investigate whether § 3–801 of this title has
4 been violated on receipt of a written complaint of an employee.

5 (2) The Commissioner may investigate whether § 3–802 of this title has
6 been violated on receipt of a written complaint of an employee.

7 (g) [The Commissioner may investigate whether Subtitle 9 of this title has been
8 violated:

9 (1) on the Commissioner’s own initiative;

10 (2) on receipt of a written complaint signed by the person submitting the
11 complaint; or

12 (3) on referral from another unit of State government.

13 (h)] The Commissioner may conduct an investigation to determine whether
14 Subtitle 10 of this title has been violated on receipt of a written complaint of an employee.

15 (i) **(H)** The Commissioner may conduct an investigation to determine whether
16 Subtitle 12 of this title has been violated on receipt of a written complaint of an employee.

17 (j) **(I)** The Commissioner, on the Commissioner’s own initiative or on receipt
18 of a written complaint, may conduct an investigation of whether a local minimum wage law
19 has been violated.

20 3–104.

21 The Commissioner may delegate any power or duty of the Commissioner under §
22 3–102(c) of this subtitle and Subtitles 2, 4, **AND 5**[, and 9] of this title.

23 **[9–315.1.**

24 The Commission shall pay the costs of the administration of the workforce fraud
25 program by the Commissioner of Labor and Industry under Title 3, Subtitle 9 of this
26 article.]

27 9–316.

28 (b) Out of money appropriated for the maintenance of the Commission, the State
29 shall pay the salaries, administrative expenses, and all other expenses of the Commission,
30 including:

1 (1) the costs of the administration of the Occupational Safety and Health
2 Program by the Commissioner of Labor and Industry under Title 5 of this article; **AND**

3 (2) [the costs of the administration of the workforce fraud program by the
4 Commissioner of Labor and Industry under Title 3, Subtitle 9 of this article; and

5 (3)] any cost incurred by the State, including contribution as an employer,
6 because of the participation of a Commissioner in the Judges' Retirement System of the
7 State of Maryland.

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2016.