

HOUSE BILL 124

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EMERGENCY BILL
(PRE-FILED)

11r0974
CF 11r0976

By: **Delegate Valderrama**

Requested: October 14, 2020

Introduced and read first time: January 13, 2021

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Occupational Safety and Health Standards to Protect Employees – Aerosol**
3 **Transmissible Diseases and COVID-19**

4 FOR the purpose of requiring the Commissioner of Labor and Industry to adopt regulations
5 establishing a certain occupational safety and health standard protecting employees
6 from certain exposure to certain diseases on or before a certain date; providing for
7 the content of certain regulations; requiring the Secretary of Labor, in consultation
8 with the Commissioner and the Maryland Department of Health, to develop an
9 Emergency Temporary Occupational Safety and Health Standard for use by
10 employers; requiring that a certain occupational safety and health standard be
11 published on the website of the Maryland Department of Labor in certain languages
12 within a certain period of time; providing for the content of a certain occupational
13 safety and health standard; specifying that a certain occupational safety and health
14 standard requires certain employers to take certain actions; requiring the Secretary
15 and Commissioner to publish certain information on the Department's website
16 relating to certain reporting by employers; providing for the termination of certain
17 provisions of this Act; making this Act an emergency measure; and generally relating
18 to occupational safety and health and employee protection from aerosol
19 transmissible diseases and COVID-19.

20 BY adding to
21 Article – Labor and Employment
22 Section 5-308.2
23 Annotated Code of Maryland
24 (2016 Replacement Volume and 2020 Supplement)

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

27 **Article – Labor and Employment**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **5-308.2.**

2 (A) ON OR BEFORE OCTOBER 1, 2021, THE COMMISSIONER SHALL ADOPT
3 REGULATIONS THAT ESTABLISH A PERMANENT OCCUPATIONAL SAFETY AND
4 HEALTH STANDARD TO PROTECT EMPLOYEES FROM OCCUPATIONAL EXPOSURE TO
5 AEROSOL TRANSMISSIBLE DISEASES.

6 (B) THE REGULATIONS REQUIRED UNDER SUBSECTION (A) OF THIS
7 SECTION SHALL:

8 (1) CONTAIN INDUSTRY-APPROPRIATE STANDARDS OF PROTECTION
9 FOR EMPLOYEES FROM OCCUPATIONAL EXPOSURE TO INFECTIOUS PATHOGENS;

10 (2) REQUIRE EMPLOYERS TO DEVELOP AND IMPLEMENT A
11 COMPREHENSIVE INFECTIOUS DISEASE EXPOSURE CONTROL PLAN; AND

12 (3) PROHIBIT AN EMPLOYER FROM TAKING DISCRIMINATORY OR
13 RETALIATORY ACTION AGAINST AN EMPLOYEE WHO:

14 (I) REPORTS TO AN EMPLOYER, A FEDERAL, STATE, OR LOCAL
15 AGENCY, THE MEDIA, OR A SOCIAL MEDIA PLATFORM:

16 1. A VIOLATION OF A STANDARD ADOPTED IN
17 REGULATIONS UNDER THIS SECTION; OR

18 2. A GOOD FAITH CONCERN ABOUT A WORKPLACE
19 INFECTIOUS DISEASE HAZARD;

20 (II) SEEKS ASSISTANCE OR INTERVENTION FROM THE
21 EMPLOYER OR A FEDERAL, STATE, OR LOCAL AGENCY WITH RESPECT TO A REPORT
22 MADE UNDER ITEM (I) OF THIS ITEM;

23 (III) VOLUNTARILY USES PERSONAL PROTECTIVE EQUIPMENT
24 WITH A HIGHER LEVEL OF PROTECTION THAN IS PROVIDED BY THE EMPLOYER; OR

25 (IV) EXERCISES ANY RIGHT PROTECTED IN REGULATIONS
26 ADOPTED UNDER THIS SECTION.

27 SECTION 2. AND BE IT FURTHER ENACTED, That:

28 (a) On or before March 1, 2021, the Secretary of Labor, in consultation with the
29 Commissioner of Labor and Industry and the Maryland Department of Health, shall
30 develop and make available in English, Spanish, and Haitian Creole on the main page of

1 the Maryland Department of Labor website an Emergency Temporary Occupational Safety
2 and Health Standard to Protect Employees From COVID–19 for use by employers.

3 (b) The Emergency Temporary Occupational Safety and Health Standard to
4 Protect Employees From COVID–19 shall:

5 (1) include:

- 6 (i) 1. a definition for “exposure risk level”;
7 2. a gradient for exposure risk level; and
8 3. factors to aid employers in determining exposure risk
9 levels with which to classify individual jobs and persons in a workplace; and

10 (ii) common exposure risk levels associated with each industry
11 operating in the State;

12 (2) establish minimum safety standards based on each exposure risk level,
13 including:

14 (i) respiratory protection and personal protective equipment
15 standards, including a requirement that employers provide, when necessary and at no cost
16 to an employee:

- 17 1. cotton face masks;
18 2. face shields;
19 3. gloves; and
20 4. other personal protective equipment;

21 (ii) physical distancing standards requiring employers to:

- 22 1. enable employees and visitors to work with at least 6 feet
23 of distance between them; and
24 2. reduce capacity, modify processing or production lines,
25 and stagger workers across shifts to minimize the number of individuals in a facility at any
26 time;

27 (iii) sanitation standards requiring employers to:

- 28 1. provide employees the ability to regularly wash hands
29 using soap and water;

1 (4) develop and implement policies and procedures by which:

2 (i) an employee shall report when that employee or another
3 individual present at a job site is experiencing symptoms consistent with COVID-19 and
4 no alternative diagnosis has been made; and

5 (ii) an employee may access personal records related to that
6 employee's disease exposure and diagnosis;

7 (5) develop and implement a notification and response system to inform
8 employees regarding potential workplace exposure to COVID-19;

9 (6) notify the Commissioner of Labor and Industry and the Maryland
10 Department of Health within 24 hours after the confirmation of a positive case of
11 COVID-19;

12 (7) notify the Commissioner of Labor and Industry within 24 hours after
13 the confirmation of three or more employees at a workplace testing positive for COVID-19
14 within a 14-day period;

15 (8) develop and implement written policies and procedures for an employee
16 diagnosed with COVID-19 to return to work;

17 (9) take appropriate action to disinfect potentially contaminated workplace
18 areas in the case of a reported infection;

19 (10) (i) not allow an employee potentially infected with COVID-19 to
20 remain in the workplace until:

21 1. the employee has been approved to return to work by a
22 health care provider;

23 2. at least 3 days have passed since the resolution of a fever
24 without the use of medications and respiratory function has improved; and

25 3. at least 10 days have passed since the onset of symptoms;
26 and

27 (ii) prohibit an employer from taking action against an employee
28 who is diagnosed with COVID-19 and removed from the workplace until such a time as
29 medical advice allows the employee to return;

30 (11) ensure that access to common areas, breakrooms, and lunchrooms is
31 closed or adheres to the Emergency Temporary Standards;

32 (12) post in a location visible to employees at the work site:

- 1 (i) information regarding COVID–19 symptoms;
- 2 (ii) protocols for an employee’s reaction to experiencing COVID–19
3 symptoms;
- 4 (iii) the minimum safety standards developed under the regulations;
5 and
- 6 (iv) the process for submitting a complaint to Maryland Occupational
7 Safety and Health; and
- 8 (13) abide by prohibitions relating to terminating or discriminating against
9 employees.

10 SECTION 3. AND BE IT FURTHER ENACTED, That the Secretary of Labor and
11 the Commissioner of Labor and Industry shall make available on the Maryland
12 Department of Labor’s website information reported by employers related to COVID–19 in
13 a manner that does not reveal the personally identifiable information of any individual
14 employee.

15 SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency
16 measure, is necessary for the immediate preservation of the public health or safety, has
17 been passed by a ye and nay vote supported by three–fifths of all the members elected to
18 each of the two Houses of the General Assembly, and shall take effect from the date it is
19 enacted. Sections 2 and 3 of this Act shall remain effective until the date that is 6 months
20 from the date on which the state of emergency declared by the Governor due to the
21 COVID–19 pandemic ends under Title 14 of the Public Safety Article and, at the end of that
22 period, Sections 2 and 3 of this Act, with no further action required by the General
23 Assembly, shall be abrogated and of no further force and effect.