A BILL ENTITLED

AN ACT concerning

Occupational Safety and Health Standards to Protect Employees – Aerosol Transmissible Diseases and COVID–19

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

BY adding to
Article – Labor and Employment
Section 5–308.2
Annotated Code of Maryland
(2016 Replacement Volume and 2020 Supplement)

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

Article – Labor and Employment

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law.
(A) On or before October 1, 2021, the Commissioner shall adopt regulations that establish a permanent Occupational Safety and Health Standard to protect employees from occupational exposure to aerosol transmissible diseases.

(B) The regulations required under subsection (A) of this section shall:

(1) Contain industry-appropriate standards of protection for employees from occupational exposure to infectious pathogens;

(2) Require employers to develop and implement a comprehensive infectious disease exposure control plan; and

(3) Prohibit an employer from taking discriminatory or retaliatory action against an employee who:

   (I) Reports to an employer, a federal, state, or local agency, the media, or a social media platform:

      1. A violation of a standard adopted in regulations under this section; or

      2. A good faith concern about a workplace infectious disease hazard;

   (II) Seeks assistance or intervention from the employer or a federal, state, or local agency with respect to a report made under item (I) of this item;

   (III) Voluntarily uses personal protective equipment with a higher level of protection than is provided by the employer; or

   (IV) Exercises any right protected in regulations adopted under this section.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) On or before March 1, 2021, the Secretary of Labor, in consultation with the Commissioner of Labor and Industry and the Maryland Department of Health, shall develop and make available in English, Spanish, and Haitian Creole on the main page of
the Maryland Department of Labor website an Emergency Temporary Occupational Safety and Health Standard to Protect Employees From COVID–19 for use by employers.

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

(1) include:

   (i) 1. a definition for “exposure risk level”;

   2. a gradient for exposure risk level; and

   3. factors to aid employers in determining exposure risk levels with which to classify individual jobs and persons in a workplace; and

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

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

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

   1. cotton face masks;

   2. face shields;

   3. gloves; and

   4. other personal protective equipment;

   (ii) physical distancing standards requiring employers to:

   1. enable employees and visitors to work with at least 6 feet of distance between them; and

   2. reduce capacity, modify processing or production lines, and stagger workers across shifts to minimize the number of individuals in a facility at any time;

   (iii) sanitation standards requiring employers to:

   1. provide employees the ability to regularly wash hands using soap and water;
2. provide hand sanitizers in multiple locations throughout the workplace;

3. regularly clean and disinfect frequently touched surfaces; and

4. clean and disinfect areas in the workplace where employees known, or suspected, to be infected with COVID–19 have been before allowing other employees access to the area;

   (iv) requirements for ventilation; and

   (v) training and safety protocols; and

(3) prohibit an employer from taking discriminatory or retaliatory action against an employee who:

   (i) reports the employer to a federal, State, or local agency or to the media or on a social media platform for:

       1. a violation in accordance with the regulations adopted under § 5–308.2 of the Labor and Employment Article, as enacted by Section 1 of this Act; or

       2. a good faith concern about a workplace infectious disease hazard;

   (ii) seeks assistance or intervention from the employer or a federal, State, or local agency with respect to a report made under item (i) of this item;

   (iii) voluntarily uses personal protective equipment with a higher level of protection than that which is provided by the employer; or

   (iv) is required to quarantine due to COVID–19 exposure.

(c) The Emergency Temporary Occupational Safety and Health Standard to Protect Employees From COVID–19 shall require each employer to:

   (1) assess the employer’s workplace for hazards and job tasks that could increase the risk of COVID–19 infection;

   (2) classify each job task according to potential hazards;

   (3) implement respiratory protection standards, personal protective equipment standards, social distancing standards, sanitation standards, ventilation, and training and safety standards established by the Emergency Temporary Standard;
(4) develop and implement policies and procedures by which:

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

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

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

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

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

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

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

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

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

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

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

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

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

(12) post in a location visible to employees at the work site:
HOUSE BILL 124

(i) information regarding COVID–19 symptoms;

(ii) protocols for an employee’s reaction to experiencing COVID–19 symptoms;

(iii) the minimum safety standards developed under the regulations;

and

(iv) the process for submitting a complaint to Maryland Occupational Safety and Health; and

(13) abide by prohibitions relating to terminating or discriminating against employees.

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

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