

SENATE BILL 107

K3
SB 62/20 – FIN

(PRE-FILED)

1lr1179
CF HB 685

By: **Senator Hayes**

Requested: October 28, 2020

Introduced and read first time: January 13, 2021

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: February 23, 2021

CHAPTER _____

1 AN ACT concerning

2 **Labor and Employment – Secure Maryland Wage Act**

3 FOR the purpose of requiring that certain employees working at a Maryland heightened
4 security interest location be paid a certain wage ~~or combination of certain wages or~~
5 ~~benefits for certain time periods~~ under certain circumstances; requiring certain
6 employers to pay certain covered employees a certain supplement benefit rate in a
7 certain manner beginning on a certain date; declaring findings of the General
8 Assembly; specifying the purposes of certain provisions of this Act; specifying that
9 certain provisions of this Act do not diminish certain rights of certain covered
10 employees; requiring an employer to pay certain covered employees an overtime
11 wage under certain circumstances; specifying that a certain agreement to work for
12 less than a certain wage is void; prohibiting an employer from including a tip credit
13 as part of the wage of certain covered employees; requiring an employer to allow
14 certain covered employees to receive tips and retain all tips received; requiring and
15 authorizing the Commissioner of Labor and Industry to create and make available
16 certain materials for certain employers; requiring the Commissioner to provide
17 certain materials to certain employers under certain circumstances; requiring an
18 employer to keep posted in each place of employment certain materials in a certain
19 manner; requiring employers to keep certain records for a certain period of time;
20 requiring the Commissioner to take certain enforcement actions; providing for the
21 confidentiality of certain records and statements; authorizing a certain person to file
22 a complaint in circuit court within a certain time period under certain circumstances;
23 requiring that a certain complaint be served on the Commissioner; requiring the
24 court to make a certain determination under certain circumstances; authorizing

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 certain employees to bring a certain action under certain circumstances; authorizing
 2 the Commissioner to take certain actions regarding certain claims under certain
 3 circumstances; providing that a certain agreement is not a defense for certain
 4 purposes; requiring a court to make certain awards to certain employees under
 5 certain circumstances; prohibiting certain employers and employees from taking
 6 certain actions; establishing a certain penalty; prohibiting a certain conviction of a
 7 certain employer except under certain circumstances; requiring the Commissioner
 8 to enforce certain provisions of law; authorizing the Commissioner to conduct a
 9 certain investigation under certain circumstances; establishing an exemption under
 10 the Wage and Hour Law for a certain covered employee; establishing an exemption
 11 under the Living Wage Law for a certain covered employee; requiring the Port of
 12 Baltimore to conduct a certain study and report to the Governor and the General
 13 Assembly on or before a certain date; requiring the Maryland Aviation
 14 Administration to conduct a certain study and report to the Governor and the
 15 General Assembly on or before a certain date; providing for the application of certain
 16 provisions of this Act; defining certain terms; and generally relating to wages paid
 17 at heightened security interest locations.

18 BY repealing and reenacting, with amendments,

19 Article – Labor and Employment

20 Section 3–102 ~~and~~ 3–403(13) and (14), and 3–419

21 Annotated Code of Maryland

22 (2016 Replacement Volume and 2020 Supplement)

23 BY adding to

24 Article – Labor and Employment

25 Section 3–103(m) and 3–403(15); and ~~3–1501~~ 3–1601 through ~~3–1511~~ 3–1611 to be
 26 under the new subtitle “Subtitle ~~15~~ 16. Secure Maryland Wage Act”

27 Annotated Code of Maryland

28 (2016 Replacement Volume and 2020 Supplement)

29 BY repealing and reenacting, with amendments,

30 Article – State Finance and Procurement

31 Section 18–102

32 Annotated Code of Maryland

33 (2015 Replacement Volume and 2020 Supplement)

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

36 **Article – Labor and Employment**

37 3–102.

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

39 (1) enforce Subtitle 2 of this title;

- 1 (2) carry out Subtitle 3 of this title;
- 2 (3) enforce Subtitle 4 of this title;
- 3 (4) enforce Subtitle 9 of this title; [and]
- 4 (5) **ENFORCE SUBTITLE ~~15~~ 16 OF THIS TITLE; AND**
- 5 **(6)** enforce a local minimum wage law.

6 (b) If the Governor declares an emergency or disaster, then, with the consent of
7 the Governor, the Commissioner may suspend enforcement of any provision of Subtitle 2 of
8 this title until the emergency or disaster ends.

9 (c) The Commissioner has the same powers and duties in enforcing a local
10 minimum wage law as the Commissioner has in enforcing Subtitle 4 of this title.

11 3-103.

12 **(M) THE COMMISSIONER MAY CONDUCT AN INVESTIGATION TO DETERMINE**
13 **WHETHER SUBTITLE ~~15~~ 16 OF THIS TITLE HAS BEEN VIOLATED ON RECEIPT OF A**
14 **WRITTEN COMPLAINT BY AN EMPLOYEE.**

15 3-403.

16 This subtitle does not apply to an individual who:

17 (13) is engaged principally in the range production of livestock; [or]

18 (14) is employed as a hand-harvest laborer and is paid on a piece-rate basis
19 in an operation that, in the region of employment, has been and customarily and generally
20 is recognized as having been paid on that basis, if:

21 (i) the individual:

22 1. commutes daily from the permanent residence of the
23 individual to the farm where the individual is employed; and

24 2. during the preceding calendar year, was employed in
25 agriculture less than 13 weeks; or

26 (ii) the individual:

27 1. is under the age of 17;

1 2. is employed on the same farm as a parent of the individual
2 or a person standing in the place of the parent; and

3 3. is paid at the same rate that an employee who is at least
4 17 years old is paid on the same farm; **OR**

5 **(15) IS A COVERED EMPLOYEE UNDER THE SECURE MARYLAND WAGE**
6 **ACT.**

7 3-419.

8 (a) (1) [This] EXCEPT AS PROVIDED IN § 3-1604(D) OF THIS TITLE, THIS
9 section applies to each employee who:

10 (i) is engaged in an occupation in which the employee customarily
11 and regularly receives more than \$30 each month in tips;

12 (ii) has been informed by the employer about the provisions of this
13 section; and

14 (iii) has kept all of the tips that the employee received.

15 (2) Notwithstanding paragraph (1)(iii) of this subsection, this section does
16 not prohibit the pooling of tips.

17 (b) Subject to the limitations in this section, an employer may include, as part of
18 the wage of an employee to whom this section applies:

19 (1) an amount that the employer sets to represent the tips of the employee;
20 or

21 (2) if the employee or representative of the employee satisfies the
22 Commissioner that the employee received a lesser amount in tips, the lesser amount.

23 (c) The tip credit amount that the employer may include under subsection (b) of
24 this section may not exceed the minimum wage established under § 3-413 of this subtitle
25 for the employee less \$3.63.

26 (d) (1) The Commissioner shall adopt regulations, in consultation with payroll
27 service providers and restaurant industry trade group representatives, to require
28 restaurant employers that include a tip credit as part of the wage of an employee to provide
29 tipped employees with a written or electronic wage statement for each pay period that
30 shows the effective hourly tip rate as derived from employer-paid cash wages plus all
31 reported tips for tip credit hours worked each workweek of the pay period.

32 (2) The Commissioner shall provide notification of the tip credit wage
33 statement regulations on the Department's website.

1 SUBTITLE ~~15~~ 16. SECURE MARYLAND WAGE ACT.

2 ~~3-1501.~~ 3-1601.

3 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.

5 (B) (1) “COVERED EMPLOYEE” MEANS ANY INDIVIDUAL EMPLOYED TO
6 PERFORM WORK AT A HEIGHTENED SECURITY INTEREST LOCATION WHO IS A
7 NONEXEMPT EMPLOYEE AS DESCRIBED IN THE FEDERAL FAIR LABOR STANDARDS
8 ACT.

9 (2) “COVERED EMPLOYEE” DOES NOT INCLUDE AN INDIVIDUAL
10 EMPLOYED TO PERFORM WORK AT A HEIGHTENED SECURITY INTEREST LOCATION
11 BY:

12 (I) A RETAIL ESTABLISHMENT AS DEFINED IN § 3-710 OF THIS
13 TITLE;

14 (II) A FOOD SERVICE FACILITY AS DEFINED IN § 21-301 OF THE
15 HEALTH – GENERAL ARTICLE; OR

16 (III) AN ON-AIRPORT OR OFF-AIRPORT MOTOR VEHICLE RENTAL
17 COMPANY, OR ANY OTHER COMPANY INVOLVED IN MOTOR VEHICLE RENTAL
18 OPERATIONS.

19 (C) (1) “EMPLOY” MEANS TO ENGAGE AN INDIVIDUAL TO WORK.

20 (2) “EMPLOY” INCLUDES:

21 (I) ALLOWING AN INDIVIDUAL TO WORK; AND

22 (II) INSTRUCTING AN INDIVIDUAL TO BE PRESENT AT A WORK
23 SITE.

24 (D) (1) “EMPLOYER” INCLUDES A PERSON WHO ACTS DIRECTLY OR
25 INDIRECTLY IN THE INTEREST OF ANOTHER EMPLOYER WITH AN EMPLOYEE.

26 (2) “EMPLOYER” DOES NOT INCLUDE AN EMPLOYER THAT PROVIDES
27 CONSTRUCTION SERVICES AS DEFINED IN § 3-901 OF THIS TITLE.

28 (E) “HEIGHTENED SECURITY INTEREST LOCATION” MEANS:

1 (1) BALTIMORE–WASHINGTON INTERNATIONAL THURGOOD
2 MARSHALL AIRPORT; OR

3 (2) PENNSYLVANIA STATION IN BALTIMORE; ~~OR~~

4 ~~(3) THE PORT OF BALTIMORE.~~

5 (F) “WAGE” MEANS ALL COMPENSATION THAT IS DUE TO AN EMPLOYEE FOR
6 EMPLOYMENT.

7 ~~3-1502.~~ 3-1602.

8 (A) THE GENERAL ASSEMBLY FINDS THAT:

9 (1) LOW WAGES OF EMPLOYEES AT A HEIGHTENED SECURITY
10 INTEREST LOCATION CAN BE A SUBSTANTIAL FACTOR IN THE INABILITY OF THESE
11 LOCATIONS TO ATTRACT OR RETAIN EXPERIENCED AND TRAINED EMPLOYEES; AND

12 (2) HIGH TURNOVER RATES AND INEXPERIENCE OF MANY
13 EMPLOYEES AT A HEIGHTENED SECURITY INTEREST LOCATION THAT RESULT FROM
14 LOW WAGES CAN HINDER THE ABILITY OF THE EMPLOYEES TO RESPOND TO
15 EMERGENCY SITUATIONS AND PUT AT RISK THE SAFETY, SECURITY, AND WELFARE
16 OF THE RESIDENTS OF THE STATE.

17 (B) THE PURPOSE OF THIS SUBTITLE IS TO SET A HIGHER WAGE STANDARD
18 FOR EMPLOYEES WORKING AT A HEIGHTENED SECURITY INTEREST LOCATION TO
19 PROMOTE THE SAFETY, SECURITY, AND WELFARE OF THE RESIDENTS OF THE STATE
20 BY:

21 (1) ENSURING THAT EMPLOYERS AT A HEIGHTENED SECURITY
22 INTEREST LOCATION CAN ATTRACT AND RETAIN EXPERIENCED AND TRAINED
23 WORKERS;

24 (2) INCREASING EMPLOYEE PREPAREDNESS AND IMPROVING THE
25 ABILITY OF EMPLOYEES TO ASSIST IN EMERGENCY RESPONSES AND EVACUATIONS;

26 (3) SAFEGUARDING EMPLOYERS AND EMPLOYEES AGAINST UNFAIR
27 COMPETITION THAT COMPROMISES SAFETY;

28 (4) PROVIDING A MAINTENANCE LEVEL THAT INCREASES EMPLOYEE
29 EFFICIENCY, GENERAL WELL–BEING, AND HEALTH; AND

1 (5) PROTECTING THE VITALITY OF A HEIGHTENED SECURITY
2 INTEREST LOCATION THROUGH IMPROVEMENTS TO THE EXPERIENCE, TRAINING,
3 AND EFFICACY OF EMPLOYEES IN TERMS OF SAFETY AND SECURITY.

4 ~~3-1503.~~ 3-1603.

5 (A) THIS SUBTITLE APPLIES TO A COVERED EMPLOYEE OF AN EMPLOYER
6 ONLY IF AT LEAST 50% OF THE COVERED EMPLOYEE'S TIME DURING ANY
7 WORKWEEK IS PERFORMED AT A HEIGHTENED SECURITY INTEREST LOCATION.

8 (B) THIS SUBTITLE DOES NOT DIMINISH:

9 (1) THE RIGHT OF COVERED EMPLOYEES TO BARGAIN COLLECTIVELY
10 WITH THEIR EMPLOYERS THROUGH REPRESENTATIVES WHOM THE COVERED
11 EMPLOYEES CHOOSE TO ESTABLISH WAGES OR OTHER CONDITIONS OF
12 EMPLOYMENT IN EXCESS OF THE APPLICABLE MINIMUM FOR WAGES UNDER THIS
13 SUBTITLE; OR

14 (2) A RIGHT OF A COVERED EMPLOYEE THAT IS GRANTED UNDER THE
15 FEDERAL FAIR LABOR STANDARDS ACT.

16 ~~3-1504.~~ 3-1604.

17 (A) (1) ~~FOR THE 12-MONTH PERIOD BEGINNING JANUARY 1, 2022, AND~~
18 ~~FOR EACH SUBSEQUENT 12-MONTH PERIOD, AN EMPLOYER SHALL PAY A COVERED~~
19 ~~EMPLOYEE WAGES, OR ANY COMBINATION OF WAGES AND BENEFITS, THAT IS NOT~~
20 ~~LESS THAN THE COMBINED AMOUNT OF THE WAGE AND FRINGE BENEFIT RATE IN~~
21 ~~EFFECT ON SEPTEMBER 1 OF THE IMMEDIATELY PRECEDING YEAR FOR THE GUARD~~
22 ~~I CLASSIFICATION FOR THE APPLICABLE COUNTY ESTABLISHED BY THE UNITED~~
23 ~~STATES SECRETARY OF LABOR UNDER §§ 6701 THROUGH 6707 OF THE FEDERAL~~
24 ~~MCNAMARA-O'HARA SERVICE CONTRACT ACT OF 1965.~~

25 (2) ~~PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSTRUED~~
26 ~~TO PROHIBIT AN EMPLOYER FROM BEGINNING TO PAY A COVERED EMPLOYEE THE~~
27 ~~WAGE RATE IN EFFECT ON SEPTEMBER 1 BEFORE REQUIRED TO UNDER PARAGRAPH~~
28 ~~(1) OF THIS SUBSECTION~~ AN EMPLOYER SHALL PAY A COVERED EMPLOYEE A WAGE
29 RATE:

30 (I) FOR THE 12-MONTH PERIOD BEGINNING JANUARY 1, 2022,
31 THAT IS NOT LESS THAN \$13.50 PER HOUR;

32 (II) FOR THE 12-MONTH PERIOD BEGINNING JANUARY 1, 2023,
33 THAT IS NOT LESS THAN \$14.25 PER HOUR;

1 (III) FOR THE 12-MONTH PERIOD BEGINNING JANUARY 1, 2024,
2 THAT IS NOT LESS THAN \$15.00 PER HOUR; AND

3 (IV) FOR THE 12-MONTH PERIOD BEGINNING JANUARY 1, 2025,
4 THAT IS NOT LESS THAN \$16.00 PER HOUR.

5 (2) BEGINNING JANUARY 1, 2026, AN EMPLOYER SHALL PAY A
6 COVERED EMPLOYEE:

7 (I) A WAGE RATE THAT IS NOT LESS THAN \$16.00 PER HOUR;
8 AND

9 (II) AN ADDITIONAL SUPPLEMENT BENEFIT RATE WITH A VALUE
10 NOT LESS THAN \$1.00 PER HOUR BY:

11 1. APPLYING THE FULL SUPPLEMENT BENEFIT TO
12 ASSIST IN COVERING THE EMPLOYEE'S SHARE OF HEALTH OR OTHER BENEFITS,
13 EXCLUDING PAID LEAVE;

14 2. A. APPLYING A PORTION OF THE SUPPLEMENT
15 BENEFIT TO ASSIST IN COVERING THE EMPLOYEE'S SHARE OF HEALTH OR OTHER
16 BENEFITS, EXCLUDING PAID LEAVE; AND

17 B. PAYING THE BALANCE IN CASH; OR

18 3. PAYING THE ENTIRE SUPPLEMENT BENEFIT IN CASH.

19 (B) AN EMPLOYER SHALL PAY AN OVERTIME WAGE OF AT LEAST 1.5 TIMES
20 THE USUAL HOURLY WAGE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION ON
21 THE BASIS OF EACH HOUR OVER 40 HOURS THAT A COVERED EMPLOYEE WORKS
22 DURING 1 WORKWEEK.

23 (C) AN AGREEMENT BETWEEN AN EMPLOYER AND A COVERED EMPLOYEE
24 TO WORK FOR LESS THAN THE WAGE REQUIRED UNDER THIS SECTION IS VOID.

25 (D) (1) AN EMPLOYER MAY NOT INCLUDE A TIP CREDIT AMOUNT UNDER
26 § 3-419 OF THIS TITLE AS PART OF THE WAGE OF A COVERED EMPLOYEE WHOSE
27 DUTIES INCLUDE PROVIDING PASSENGERS WITH WHEELCHAIR ASSISTANCE,
28 INCLUDING A WHEELCHAIR AGENT OR A PASSENGER SERVICE AGENT.

29 (2) AN EMPLOYER OF A COVERED EMPLOYEE DESCRIBED IN
30 PARAGRAPH (1) OF THIS SUBSECTION SHALL ALLOW THE COVERED EMPLOYEE TO
31 RECEIVE TIPS AND RETAIN ALL TIPS RECEIVED.

1 ~~3-1505.~~ 3-1605.

2 (A) THE COMMISSIONER:

3 (1) SHALL CREATE AND MAKE AVAILABLE A SUMMARY OF THIS
4 SUBTITLE; AND

5 (2) MAY CREATE AND MAKE AVAILABLE A SUMMARY OF REGULATIONS
6 ADOPTED UNDER THIS SUBTITLE.

7 (B) ON REQUEST OF AN EMPLOYER, THE COMMISSIONER SHALL PROVIDE
8 WITHOUT CHARGE:

9 (1) A COPY OF THIS SUBTITLE;

10 (2) A SUMMARY OF THIS SUBTITLE;

11 (3) A COPY OF REGULATIONS ADOPTED UNDER THIS SUBTITLE; AND

12 (4) IF THE COMMISSIONER HAS DEVELOPED A SUMMARY OF
13 REGULATIONS ADOPTED UNDER THIS SUBTITLE, A SUMMARY OF THE REGULATIONS.

14 (C) EACH EMPLOYER SHALL KEEP POSTED CONSPICUOUSLY IN EACH PLACE
15 OF EMPLOYMENT:

16 (1) A SUMMARY OF THIS SUBTITLE THAT THE COMMISSIONER HAS
17 PROVIDED TO THE EMPLOYER; AND

18 (2) A COPY OR SUMMARY OF REGULATIONS ADOPTED UNDER THIS
19 SUBTITLE.

20 ~~3-1506.~~ 3-1606.

21 EACH EMPLOYER SHALL KEEP, FOR AT LEAST 3 YEARS, IN OR ABOUT THE
22 PLACE OF EMPLOYMENT, A RECORD OF:

23 (1) THE NAME, ADDRESS, AND OCCUPATION OF EACH EMPLOYEE;

24 (2) THE RATE OF PAY OF EACH EMPLOYEE;

25 (3) THE AMOUNT THAT IS PAID EACH PAY PERIOD TO EACH
26 EMPLOYEE;

27 (4) THE HOURS THAT EACH EMPLOYEE WORKS EACH DAY AND
28 WORKWEEK; AND

1 (5) OTHER INFORMATION THAT THE COMMISSIONER REQUIRES, BY
2 REGULATION, AS REASONABLE TO ENFORCE THIS SUBTITLE.

3 ~~3-1507.~~ 3-1607.

4 (A) THE COMMISSIONER SHALL ENTER A PLACE OF EMPLOYMENT TO:

5 (1) QUESTION EMPLOYEES TO DETERMINE WHETHER AN EMPLOYER
6 HAS BEEN AND IS COMPLYING WITH THIS SUBTITLE AND REGULATIONS ADOPTED TO
7 CARRY OUT THIS SUBTITLE;

8 (2) INSPECT AND COPY EACH RECORD THAT AN EMPLOYER KEEPS ON
9 WAGES AND HOURS OF EMPLOYEES; AND

10 (3) REQUIRE EACH EMPLOYER TO:

11 (I) ATTEST TO THE TRUTHFULNESS OF EACH RECORD THAT IS
12 COPIED AND TO SIGN THE COPY; OR

13 (II) AT THE OPTION OF THE EMPLOYER, SUBMIT A COMPLETE
14 WRITTEN STATEMENT ABOUT THE WAGES, HOURS, NAME, AND ADDRESS OF EACH
15 EMPLOYEE, ON FORMS THAT THE COMMISSIONER PROVIDES OR APPROVES.

16 (B) EACH RECORD OR STATEMENT THAT THE COMMISSIONER OR AN
17 AUTHORIZED REPRESENTATIVE OF THE COMMISSIONER OBTAINS UNDER
18 SUBSECTION (A) OF THIS SECTION IS CONFIDENTIAL AND MAY BE SHOWN ONLY TO
19 THE COMMISSIONER OR A COURT.

20 ~~3-1508.~~ 3-1608.

21 (A) (1) A PERSON AGGRIEVED BY A REGULATION ADOPTED BY OR AN
22 ORDER TO PAY WAGES ISSUED BY THE COMMISSIONER UNDER THIS SUBTITLE MAY
23 FILE A COMPLAINT IN CIRCUIT COURT WITHIN 60 DAYS AFTER THE DATE OF
24 PUBLICATION OF THE REGULATION OR ORDER TO PAY WAGES TO HAVE IT MODIFIED
25 OR SET ASIDE.

26 (2) A COPY OF THE COMPLAINT SHALL BE SERVED ON THE
27 COMMISSIONER.

28 (B) UNLESS THE COURT SPECIFICALLY ORDERS OTHERWISE, THE
29 COMMENCEMENT OF PROCEEDINGS UNDER THIS SECTION MAY NOT OPERATE AS A
30 STAY OF THE REGULATION OR ORDER TO PAY WAGES.

1 (C) (1) THE COURT SHALL DETERMINE WHETHER A REGULATION OR
2 ORDER TO PAY WAGES IS IN ACCORDANCE WITH LAW.

3 (2) IF A FINDING OF FACT IS SUPPORTED BY SUBSTANTIAL EVIDENCE,
4 THE FINDING IS CONCLUSIVE.

5 ~~3-1509.~~ 3-1609.

6 (A) IF AN EMPLOYER PAYS A COVERED EMPLOYEE LESS THAN THE WAGE
7 REQUIRED UNDER THIS SUBTITLE, THE COVERED EMPLOYEE MAY BRING AN ACTION
8 AGAINST THE EMPLOYER TO RECOVER:

9 (1) THE DIFFERENCE BETWEEN THE WAGE PAID TO THE COVERED
10 EMPLOYEE AND THE WAGE REQUIRED UNDER THIS SUBTITLE;

11 (2) AN ADDITIONAL AMOUNT EQUAL TO THE DIFFERENCE BETWEEN
12 THE WAGE PAID TO THE COVERED EMPLOYEE AND THE WAGE REQUIRED UNDER
13 THIS SUBTITLE AS LIQUIDATED DAMAGES; AND

14 (3) COUNSEL FEES AND OTHER COSTS.

15 (B) ON THE WRITTEN REQUEST OF A COVERED EMPLOYEE WHO IS ENTITLED
16 TO BRING AN ACTION UNDER THIS SECTION, THE COMMISSIONER MAY:

17 (1) TAKE AN ASSIGNMENT OF THE CLAIM IN TRUST FOR THE COVERED
18 EMPLOYEE;

19 (2) ASK THE ATTORNEY GENERAL TO BRING AN ACTION IN
20 ACCORDANCE WITH THIS SECTION ON BEHALF OF THE COVERED EMPLOYEE; AND

21 (3) CONSOLIDATE TWO OR MORE CLAIMS AGAINST AN EMPLOYER.

22 (C) THE AGREEMENT OF A COVERED EMPLOYEE TO WORK FOR LESS THAN
23 THE WAGE TO WHICH THE COVERED EMPLOYEE IS ENTITLED UNDER THIS SUBTITLE
24 IS NOT A DEFENSE TO AN ACTION UNDER THIS SECTION.

25 (D) (1) IF A COURT DETERMINES THAT A COVERED EMPLOYEE IS
26 ENTITLED TO RECOVERY IN AN ACTION UNDER THIS SECTION, THE COURT SHALL
27 AWARD TO THE COVERED EMPLOYEE:

28 (I) THE DIFFERENCE BETWEEN THE WAGE PAID TO THE
29 COVERED EMPLOYEE AND THE WAGE REQUIRED UNDER THIS SUBTITLE;

1 (II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
2 SUBSECTION, AN ADDITIONAL AMOUNT EQUAL TO THE DIFFERENCE BETWEEN THE
3 WAGE PAID TO THE COVERED EMPLOYEE AND THE WAGE REQUIRED UNDER THIS
4 SUBTITLE AS LIQUIDATED DAMAGES; AND

5 (III) REASONABLE COUNSEL FEES AND OTHER COSTS.

6 (2) IF AN EMPLOYER SHOWS TO THE SATISFACTION OF THE COURT
7 THAT THE EMPLOYER ACTED IN GOOD FAITH AND REASONABLY BELIEVED THAT THE
8 WAGES PAID TO THE COVERED EMPLOYEE WERE NOT LESS THAN THE WAGE
9 REQUIRED UNDER THIS SUBTITLE, THE COURT SHALL:

10 (I) DETERMINE THAT LIQUIDATED DAMAGES SHOULD NOT BE
11 AWARDED; OR

12 (II) AWARD, AS LIQUIDATED DAMAGES, ANY AMOUNT LESS THAN
13 THE AMOUNT SPECIFIED IN PARAGRAPH (1)(II) OF THIS SUBSECTION.

14 ~~3-1510.~~ 3-1610.

15 (A) IN THIS SECTION, "COMPLAINT" INCLUDES A WRITTEN OR ORAL
16 COMPLAINT, CLAIM, OR ASSERTION OF RIGHT BY A COVERED EMPLOYEE
17 REGARDING THE PAYMENT OF WAGES UNDER THIS SUBTITLE THAT IS MADE TO:

18 (1) THE EMPLOYER OR A SUPERVISOR, MANAGER, OR FOREMAN
19 EMPLOYED BY THE EMPLOYER WHETHER IT IS MADE THROUGH THE EMPLOYER'S
20 INTERNAL GRIEVANCE PROCESS OR OTHERWISE; OR

21 (2) THE COMMISSIONER OR AN AUTHORIZED REPRESENTATIVE OF
22 THE COMMISSIONER.

23 (B) (1) AN EMPLOYER MAY NOT:

24 (I) PAY OR AGREE TO PAY LESS THAN THE WAGE REQUIRED
25 UNDER THIS SUBTITLE;

26 (II) HINDER OR DELAY THE COMMISSIONER OR AN AUTHORIZED
27 REPRESENTATIVE OF THE COMMISSIONER IN THE ENFORCEMENT OF THIS
28 SUBTITLE;

29 (III) TAKE ADVERSE ACTION AGAINST A COVERED EMPLOYEE
30 BECAUSE THE COVERED EMPLOYEE:

1 **1. MAKES A COMPLAINT THAT THE COVERED EMPLOYEE**
2 **HAS NOT BEEN PAID IN ACCORDANCE WITH THIS SUBTITLE;**

3 **2. BRINGS AN ACTION UNDER THIS SUBTITLE OR A**
4 **PROCEEDING THAT RELATES TO THE SUBJECT OF THIS SUBTITLE; OR**

5 **3. HAS TESTIFIED IN AN ACTION UNDER THIS SUBTITLE**
6 **OR A PROCEEDING RELATED TO THE SUBJECT OF THIS SUBTITLE; OR**

7 **(IV) VIOLATE ANY OTHER PROVISION OF THIS SUBTITLE.**

8 **(2) ADVERSE ACTION PROHIBITED UNDER PARAGRAPH (1) OF THIS**
9 **SUBSECTION INCLUDES:**

10 **(I) DISCHARGE;**

11 **(II) DEMOTION;**

12 **(III) THREATENING THE COVERED EMPLOYEE WITH DISCHARGE**
13 **OR DEMOTION; AND**

14 **(IV) ANY OTHER RETALIATORY ACTION THAT RESULTS IN A**
15 **CHANGE TO THE TERMS OR CONDITIONS OF EMPLOYMENT THAT WOULD DISSUADE**
16 **A REASONABLE COVERED EMPLOYEE FROM MAKING A COMPLAINT, BRINGING AN**
17 **ACTION, OR TESTIFYING IN AN ACTION UNDER THIS SUBTITLE.**

18 **(C) A COVERED EMPLOYEE MAY NOT:**

19 **(1) MAKE A GROUNDLESS OR MALICIOUS COMPLAINT TO THE**
20 **COMMISSIONER OR AN AUTHORIZED REPRESENTATIVE OF THE COMMISSIONER;**

21 **(2) IN BAD FAITH, BRING AN ACTION UNDER THIS SUBTITLE OR A**
22 **PROCEEDING RELATED TO THE SUBJECT OF THIS SUBTITLE; OR**

23 **(3) IN BAD FAITH, TESTIFY IN AN ACTION UNDER THIS SUBTITLE OR A**
24 **PROCEEDING RELATED TO THE SUBJECT OF THIS SUBTITLE.**

25 **(D) A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION IS GUILTY**
26 **OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING**
27 **\$1,000.**

28 **(E) AN EMPLOYER MAY NOT BE CONVICTED UNDER THIS SECTION UNLESS**
29 **THE EVIDENCE DEMONSTRATES THAT THE EMPLOYER HAD KNOWLEDGE OF THE**

1 RELEVANT COMPLAINT, TESTIMONY, OR ACTION FOR WHICH THE PROSECUTION FOR
2 RETALIATION IS SOUGHT.

3 ~~3-1511. 3-1611.~~

4 THIS SUBTITLE MAY BE CITED AS THE SECURE MARYLAND WAGE ACT.

5 **Article – State Finance and Procurement**

6 18–102.

7 (a) (1) This title applies to an employee of an employer for the duration of a
8 contract subject to this title if at least one-half of the employee’s time during any workweek
9 relates to a State contract for services or a subcontract for services under a State contract.

10 (2) This title does not apply to an employee of an employer if the employee:

11 (i) is 17 years of age or younger for the duration of a contract subject
12 to this title; or

13 (ii) works less than 13 consecutive weeks for the duration of a
14 contract subject to this title and during that period works full time.

15 (b) (1) This title does not apply to a contract:

16 [(1)] (I) for services needed immediately to prevent or respond to an
17 imminent threat to public health or safety;

18 [(2)] (II) with a public service company;

19 [(3)] (III) with a nonprofit organization;

20 [(4)] (IV) between units; or

21 [(5)] (V) between a unit and a county or Baltimore City.

22 (2) THIS TITLE DOES NOT APPLY TO A COVERED EMPLOYEE UNDER
23 THE SECURE MARYLAND WAGE ACT.

24 (c) If the unit responsible for a State contract determines that application of this
25 title would conflict with any applicable federal program requirement, this title does not
26 apply to the contract or program.

27 (d) The head of the unit responsible for a State contract subject to this title shall
28 determine if contract services valued at 50% or more of the total value of the contract will

1 be performed in the Tier 1 area or the Tier 2 area and shall provide that determination on
2 the invitation for a bid.

3 SECTION 2. AND BE IT FURTHER ENACTED, That the Port of Baltimore shall:

4 (1) compare wage rates and benefit rates of employees, by employee
5 category or job classification, working at the Port of Baltimore with the wage rates and
6 benefit rates of employees working at the Norfolk International Terminals of the Port of
7 Virginia and at the Port of Philadelphia; and

8 (2) on or before January 1, 2022, report its findings to the Governor and,
9 in accordance with § 2-1257 of the State Government Article, the General Assembly.

10 SECTION 3. AND BE IT FURTHER ENACTED, That the Maryland Aviation
11 Administration shall:

12 ~~(1) study the difference between the wage rates and benefit rates for~~
13 ~~covered employees under § 3-1604(a) of the Labor and Employment Article, as enacted by~~
14 ~~Section 1 of this Act, and the wage rates and benefit rates paid to employees of:~~

15 ~~(i) retail establishments located at BWI Thurgood Marshall Airport;~~

16 ~~(ii) food service facilities located at BWI Thurgood Marshall Airport;~~

17 ~~and~~

18 ~~(iii) on-airport or off-airport motor vehicle rental companies, or any~~
19 ~~other company involved in motor vehicle rental operations that serve BWI Thurgood~~
20 ~~Marshall~~ compare wage and benefit rates for all employees working at the
21 Baltimore-Washington International Thurgood Marshall Airport, by employee category,
22 job classification, and employment sector, with the wage and benefit rates for employees
23 working at Ronald Reagan Washington National Airport and Dulles International Airport;
24 and

25 (2) on or before January 1, 2022, report its findings to the Governor and,
26 in accordance with § 2-1257 of the State Government Article, the General Assembly.

27 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2021.