

HB0368/813629/1

BY: Health and Government Operations Committee

AMENDMENTS TO HOUSE BILL 368

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “**Delegate Cullison**” and substitute “**Delegates Cullison, Alston, Bagnall, Bhandari, Guzzone, Hill, S. Johnson, Kaiser, Kerr, R. Lewis, Lopez, Martinez, Pena–Melnik, Rosenberg, Taveras, White Holland, and Woods**”; strike in its entirety line 2 and substitute “**Maryland Commission on Civil Rights – Monetary Relief**”; strike beginning with “authorizing” in line 3 down through “accommodation” in line 16 and substitute “altering certain maximum amounts of monetary relief the Maryland Commission on Civil Rights is authorized to award if the Commission finds that a respondent has engaged in a discriminatory act under certain provisions of law regarding public accommodations and persons licensed or regulated by a certain unit in the Maryland Department of Labor; providing that certain maximum amounts of monetary relief the Commission is authorized to award do not apply under certain circumstances; prohibiting the Commission from awarding monetary relief to a respondent under certain circumstances; requiring an administrative law judge to consider certain information when determining the amount of monetary relief; and generally relating to the Maryland Commission on Civil Rights and monetary relief”; after line 16, insert:

“BY repealing and reenacting, without amendments,

Article - State Government

Section 20-304 and 20-402

Annotated Code of Maryland

(2021 Replacement Volume and 2023 Supplement)”;

and strike beginning with “20–1001” in line 19 down through “20–1016(a)” in line 20 and substitute “20–1016”.

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AMENDMENT NO. 2

On pages 1 through 7, strike in their entirety the lines beginning with line 26 on page 1 through line 29 on page 7, inclusive, and substitute:

“20–304.

An owner or operator of a place of public accommodation or an agent or employee of the owner or operator may not refuse, withhold from, or deny to any person any of the accommodations, advantages, facilities, or privileges of the place of public accommodation because of the person’s race, sex, age, color, creed, national origin, marital status, sexual orientation, gender identity, or disability.

20–402.

A person that is licensed or regulated by a unit in the Maryland Department of Labor listed in § 2–108 of the Business Regulation Article may not refuse, withhold from, or deny any person any of the accommodations, advantages, facilities, privileges, sales, or services of the licensed or regulated person or discriminate against any person because of the person’s race, sex, creed, color, national origin, marital status, sexual orientation, age, gender identity, or disability.

20–1016.

(a) Except as provided in [subsection] SUBSECTIONS (b) AND (c) of this section, in addition to any other relief authorized, if the Commission finds that a respondent has engaged in a discriminatory act under Subtitle 3 or Subtitle 4 of this title, the Commission may seek an order [assessing a civil penalty against the respondent] AWARDING MONETARY RELIEF TO THE COMPLAINANT:

(1) if the respondent has not been adjudicated to have committed any prior discriminatory act, in an amount not exceeding \$500;

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(2) if the respondent has been adjudicated to have committed one other discriminatory act during the 5-year period ending on the date of the filing of the current charge, in an amount not exceeding \$1,000; and

(3) if the respondent has been adjudicated to have committed two or more discriminatory acts during the 7-year period ending on the date of the filing of the current charge, in an amount not exceeding \$2,500.

(b) (1) If the discriminatory act is committed by an individual who has been previously adjudicated to have committed one or more discriminatory acts, the time periods set forth in subsection (a)(2) and (3) of this section do not apply.

(2) IF THE DISCRIMINATORY ACT IS COMMITTED BY THE AGENT OR EMPLOYEE OF A RESPONDENT, THE MAXIMUM AMOUNTS SET FORTH IN SUBSECTION (A)(2) AND (3) OF THIS SECTION DO NOT APPLY AND THE COMMISSION MAY SEEK AN ORDER AWARDING MONETARY RELIEF IN AN AMOUNT NOT EXCEEDING \$25,000, PROVIDED THAT:

(I) THE ACT COMMITTED BY THE AGENT OR EMPLOYEE IS DETERMINED TO BE DISCRIMINATORY; AND

(II) THE RESPONDENT HAS NOT REASONABLY MITIGATED THE HARM CAUSED BY THE DISCRIMINATORY ACT.

(3) THE MAXIMUM AMOUNTS SET FORTH IN SUBSECTION (A)(2) AND (3) OF THIS SECTION DO NOT APPLY IF THE ACT IS FOUND TO BE MALICIOUS.

(C) THE COMMISSION MAY NOT SEEK AN ORDER AWARDING MONETARY RELIEF TO A COMPLAINANT IF:

(1) THE DISCRIMINATORY ACT WAS LIMITED TO A VIOLATION

(Over)

RELATING TO ACCESSIBILITY;

(2) THE RESPONDENT, AFTER BEING SERVED, TAKES PROMPT CORRECTIVE ACTION; AND

(3) THE RESPONDENT HAS NOT PREVIOUSLY BEEN THE SUBJECT OF A COMPLAINT UNDER § 20-1004 OF THIS SUBTITLE.

(D) IF THE COMMISSION SEEKS AN ORDER AWARDING MONETARY RELIEF BEFORE AN ADMINISTRATIVE LAW JUDGE UNDER § 20-1008 OF THIS SUBTITLE, IN DETERMINING THE AMOUNT OF THE MONETARY RELIEF TO BE AWARDED, THE ADMINISTRATIVE LAW JUDGE SHALL CONSIDER:

(1) THE SERIOUSNESS OF THE DISCRIMINATORY ACT;

(2) THE GOOD FAITH OF THE RESPONDENT;

(3) THE HARMFUL EFFECT TO THE PUBLIC OF THE DISCRIMINATORY ACT;

(4) THE HARMFUL EFFECT OF THE RESPONDENT'S ACTIONS ON THE INVESTIGATORY PROCESS OF THE COMMISSION; AND

(5) THE RESPONDENT'S ASSETS.

[(c)] (E) Any [civil penalties] MONETARY RELIEF collected under this section shall be paid to the [General Fund of the State] COMPLAINANT.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before July 1, 2025, and on or before July 1 of each of the immediately following 4 years, the Maryland

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Commission on Civil Rights shall submit a report to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly regarding the effect Section 1 of this Act has had on persons against whom complaints have been filed under Title 20 of the State Government Article.”;

and in line 30, strike “2.” and substitute “3.”.