
By: Delegate Curran

Introduced and read first time: January 30, 1997

Assigned to: Commerce and Government Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 1997

CHAPTER ____

1 AN ACT concerning

2 **Human Relations Commission - Discrimination in Employment - Private Causes of**
3 **Action**

4 FOR the purpose of prohibiting the construction of certain provisions of law regarding
5 discrimination in employment to create a private cause of action under certain
6 circumstances; providing for a private cause of action for employees discharged
7 under certain circumstances; authorizing a certain court to order certain types of
8 relief for violations of this Act; prohibiting a court from ordering certain types of
9 relief for violations of this Act; and generally relating to the existence of private
10 causes of action for certain discharges of employees by certain employers.

11 BY repealing and reenacting, without amendments,
12 Article 49B - Human Relations Commission
13 Section 11(e)
14 Annotated Code of Maryland
15 (1994 Replacement Volume and 1996 Supplement)

16 BY adding to
17 Article 49B - Human Relations Commission
18 Section 18A
19 Annotated Code of Maryland
20 (1994 Replacement Volume and 1996 Supplement)

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

2

1 **Article 49B - Human Relations Commission**

2 11.

3 (e) If upon all the evidence, the hearing examiner finds that the respondent has
 4 engaged in any discriminatory act within the scope of any of these subtitles, the hearing
 5 examiner shall so state the findings. The hearing examiner shall issue and cause to be
 6 served upon the respondent an order requiring the respondent to cease and desist from
 7 the discriminatory acts and to take affirmative action to effectuate the purposes of the
 8 particular subtitle. If the respondent is found to have engaged in or to be engaging in an
 9 unlawful employment practice charged in the complaint, the remedy may include, but is
 10 not limited to, reinstatement or hiring of employees, with or without back pay (payable by
 11 the employer, employment agency, or labor organization, as the case may be, responsible
 12 for the unlawful employment practice), or any other equitable relief that is deemed
 13 appropriate. The award of monetary relief shall be limited to a 36-month period. The
 14 complainant may not be awarded monetary relief for losses incurred between the time of
 15 the Commission's final determination and the final determination by the circuit court or
 16 higher appellate court, as the case may be. Interim earning or amounts earnable with
 17 reasonable diligence by the person or persons discriminated against shall operate to
 18 reduce the monetary relief otherwise allowable. In cases of discrimination other than
 19 those involving employment, in addition to the award of civil penalties as specifically
 20 provided in this article, nonmonetary relief may be granted to the complainant, except
 21 that in no event shall an order be issued that substantially affects the cost, level, or type
 22 of any transportation services. In cases involving transportation services which are
 23 supported fully or partially with funds from the Maryland Department of Transportation,
 24 no order may be issued which would require costs, level, or type of transportation services
 25 different from or in excess of those required to meet U.S. Department of Transportation
 26 regulations adopted pursuant to § 504 of the Rehabilitation Act of 1974, codified as 49
 27 C.F.R. 27 (1984), nor would any such order be enforceable under § 12(a) of this subtitle.

28 18A.

29 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, NOTHING IN
 30 THIS SUBTITLE MAY BE CONSTRUED TO CREATE A PRIVATE CAUSE OF ACTION.

31 (B) (1) AN EMPLOYEE DISCHARGED IN VIOLATION OF PARAGRAPH (2) OF
 32 THIS SUBSECTION MAY BRING A PRIVATE CAUSE OF ACTION IN A ~~CIRCUIT~~ COURT
 33 HAVING JURISDICTION OVER THE EMPLOYER WITHIN 180 DAYS FROM THE DATE OF
 34 THE EMPLOYER'S DISCHARGE OF THE EMPLOYEE.

35 (2) AN EMPLOYER EMPLOYING FEWER THAN 15 PERSONS MAY NOT
 36 DISCHARGE AN EMPLOYEE ON THE BASIS OF RACE, COLOR, RELIGION, ~~ANCESTRY,~~
 37 ~~NATIONAL ORIGIN,~~ SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, OR PHYSICAL
 38 OR MENTAL HANDICAP UNRELATED IN NATURE AND EXTENT SO AS TO
 39 REASONABLY PRECLUDE THE PERFORMANCE OF THE EMPLOYMENT.

40 (3) FOR A VIOLATION OF PARAGRAPH (2) OF THIS SUBSECTION, A
 41 COURT HAVING JURISDICTION:

42 (I) MAY ORDER ANY FORM OF RELIEF PROVIDED UNDER § 11(E)
 43 OF THIS ARTICLE ON A VIOLATION OF THIS SECTION; BUT

3

1 (II) MAY NOT AWARD ANY OTHER COMPENSATORY OR PUNITIVE
2 DAMAGES.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 1997.