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HB 642/96 - ECM

1997 Regular Session  
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**By: Delegates Jacobs, La Vay, Eckardt, McClenahan, Schade, Walkup, Baldwin, Beck, Bissett, Brinkley, Ciliberti, Cryor, Elliott, Flanagan, Getty, Greenip, D. Hughes, Hutchins, Kittleman, Klima, Morgan, Mossburg, O'Donnell, Ports, Redmer, Schisler, Snodgrass, Stocksdale, and Stull**

Introduced and read first time: January 31, 1997

Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment - Right to Work**

3 FOR the purpose of establishing a right to work provision of law by prohibiting employers  
4 and labor organizations from requiring employees to join, remain members of, or  
5 pay dues to a labor organization; requiring employers to provide certain information  
6 to employees; requiring employees who permit employers to deduct from their  
7 compensation certain fees or dues to give prior authorization for the deductions in  
8 a certain manner; permitting these employees to revoke their authorization in a  
9 certain manner; defining a certain term; providing for the investigation of  
10 complaints and enforcement of violations of this Act; providing certain penalties  
11 and certain civil relief for violations of this Act; and generally relating to labor  
12 organizations and employment practices.

13 BY repealing and reenacting, with amendments,  
14 Article - Labor and Employment  
15 Section 4-301, 4-302, and 4-304  
16 Annotated Code of Maryland  
17 (1991 Volume and 1996 Supplement)

18 BY repealing and reenacting, without amendments,  
19 Article - Labor and Employment  
20 Section 4-303 and 4-307  
21 Annotated Code of Maryland  
22 (1991 Volume and 1996 Supplement)

23 BY adding to  
24 Article - Labor and Employment  
25 Section 4-305  
26 Annotated Code of Maryland  
27 (1991 Volume and 1996 Supplement)

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

3 **Article - Labor and Employment**

4 4-301.

5 (a) In this subtitle the following words have the meanings indicated.

6 (b) "Injunctive relief" means:

7 (1) a permanent injunction;

8 (2) a temporary injunction; or

9 (3) a temporary restraining order.

10 (c) "Labor dispute" includes any controversy, regardless of whether the  
11 disputants stand in the proximate relation of employee or employer, concerning:

12 (1) terms or conditions of employment;

13 (2) employment relations;

14 (3) the association or representation of persons in negotiating, setting,  
15 maintaining, or changing terms or conditions of employment; or

16 (4) any other controversy arising out of the respective interests of employee  
17 or employer.

18 (D) "LABOR ORGANIZATION" MEANS AN ORGANIZATION, AGENCY, UNION,  
19 OR EMPLOYEE REPRESENTATION COMMITTEE THAT EXISTS FOR THE PURPOSE OF  
20 DEALING WITH EMPLOYERS ON BEHALF OF EMPLOYEES CONCERNING WAGES,  
21 RATES OF PAY, HOURS OF WORK, OR OTHER CONDITIONS OF EMPLOYMENT.

22 [(d)] (E) "Person participating or interested in a labor dispute" means a person  
23 against whom relief is sought if the person:

24 (1) is engaged in the industry, craft, trade, or occupation in which the  
25 dispute occurs; or

26 (2) is an agent, member, or officer of an association of employees or  
27 employers engaged in the industry, craft, trade, or occupation in which the dispute occurs.

28 (F) "PROMISE" MEANS ANY UNDERTAKING, WHETHER EXPRESS OR IMPLIED  
29 OR ORAL OR WRITTEN.

30 4-302.

31 (a) The General Assembly finds that:

32 (1) governmental authority has allowed and encouraged employers to  
33 organize in corporate and other forms of capital control; and

34 (2) in dealing with these employers, an individual worker who is not  
35 represented by an organization is helpless to exercise liberty of contract or to protect

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1 personal freedom of labor and, thus, to obtain acceptable terms and conditions of  
2 employment.

3 (b) The policy of the State is that:

4 (1) negotiation of terms and conditions of employment should result from  
5 voluntary agreement between employees and employer; and

6 (2) therefore, each individual worker must be:

7 (i) fully free to associate, organize, and designate a representative, as  
8 the worker chooses, for negotiation of terms and conditions of employment; and

9 (ii) free from coercion, interference, or restraint by an employer or an  
10 agent of an employer in:

11 1. designation of a representative;

12 2. self-organization; and

13 3. other concerted activity for the purpose of collective  
14 bargaining or other mutual aid or protection.

15 (C) THE POLICY OF THE STATE IS THAT EACH INDIVIDUAL WORKER MUST BE  
16 FULLY FREE TO DECIDE WHETHER OR NOT TO ASSOCIATE, ORGANIZE, DESIGNATE  
17 A REPRESENTATIVE, OR JOIN OR ASSIST A LABOR ORGANIZATION.

18 4-303.

19 This subtitle shall be interpreted and applied in accordance with the policy stated in  
20 § 4-302 of this subtitle.

21 4-304.

22 (a) [In this section, "promise" means any undertaking, whether express or  
23 implied or oral or written.

24 (b)] A promise made between an employee or prospective employee and an  
25 employer, prospective employer, or any other individual, association, company,  
26 corporation, or firm is against the policy of the State if the promise requires either party:

27 (1) to join or remain a member of an employer or labor organization;

28 (2) not to join or not to remain a member of an employer or labor  
29 organization; or

30 (3) to withdraw from an employment relation if the party joins or remains a  
31 member of an employer or labor organization.

32 [(c)] (B) A court may not grant, on the basis of a promise described in this  
33 section, any relief against:

34 (1) a party to the promise; or

35 (2) another person who, without the act or threat of fraud or violence,  
36 advises, induces, or urges a party to disregard the promise.

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1 4-305.

2 (A) AN EMPLOYER MAY NOT REQUIRE AN EMPLOYEE TO:

3 (1) JOIN OR REMAIN A MEMBER OF A LABOR ORGANIZATION; OR

4 (2) PAY ANY DUES, FEES, OR OTHER CHARGES TO A LABOR  
5 ORGANIZATION.

6 (B) (1) AN EMPLOYER MAY NOT DEDUCT ANY LABOR ORGANIZATION  
7 DUES, FEES, ASSESSMENTS, OR OTHER CHARGES FROM THE WAGES, EARNINGS, OR  
8 COMPENSATION OF AN EMPLOYEE UNLESS THE EMPLOYER HAS RECEIVED PRIOR  
9 WRITTEN AUTHORIZATION FROM THE EMPLOYEE.

10 (2) AN EMPLOYEE MAY REVOKE A WRITTEN AUTHORIZATION MADE  
11 UNDER PARAGRAPH (1) OF THIS SUBSECTION IF THE EMPLOYEE GIVES THE  
12 EMPLOYER WRITTEN NOTICE 30 DAYS IN ADVANCE OF THE EFFECTIVE DATE OF THE  
13 REVOCATION.

14 (3) AN EMPLOYER WHO RECEIVES A WRITTEN AUTHORIZATION FROM  
15 AN EMPLOYEE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL NOTIFY THE  
16 EMPLOYEE THAT IF THE EMPLOYEE GIVES THE EMPLOYER WRITTEN NOTICE 30  
17 DAYS IN ADVANCE OF THE EFFECTIVE DATE OF THE REVOCATION, THE EMPLOYEE  
18 MAY REVOKE THE AUTHORIZATION.

19 (C) AN EMPLOYER AND A LABOR ORGANIZATION MAY NOT ENTER INTO AN  
20 ORAL OR WRITTEN AGREEMENT, CONTRACT, OR PROMISE THAT VIOLATES THE  
21 PROVISIONS OF SUBSECTIONS (A) AND (B) OF THIS SECTION.

22 (D) (1) AN EMPLOYER SHALL POST AND KEEP DISPLAYED IN A PLACE AT  
23 THE EMPLOYER'S BUSINESS WHERE EMPLOYEES MAY READILY SEE IT, A NOTICE  
24 THAT STATES:

25 "UNDER MARYLAND LAW, EMPLOYEES MAY OR MAY NOT CHOOSE TO JOIN A  
26 LABOR ORGANIZATION WITHOUT PENALTY. IT IS UNLAWFUL FOR AN  
27 EMPLOYER AND A LABOR ORGANIZATION TO ENTER INTO A CONTRACT OR  
28 AGREEMENT THAT REQUIRES EMPLOYEES TO JOIN OR BELONG TO A LABOR  
29 ORGANIZATION. IT IS ALSO UNLAWFUL FOR AN EMPLOYER TO REQUIRE  
30 EMPLOYEES TO PAY DUES, FEES, OR CHARGES OF ANY KIND TO A LABOR  
31 ORGANIZATION AS A CONDITION OF OBTAINING OR KEEPING A JOB. AN  
32 EMPLOYER MAY NOT DISCHARGE OR OTHERWISE DISCRIMINATE AGAINST AN  
33 EMPLOYEE BECAUSE OF THE EMPLOYEE'S JOINING OR REFUSING TO JOIN A  
34 LABOR ORGANIZATION."

35 (2) AN EMPLOYER SHALL FURNISH A COPY OF THE NOTICE UNDER  
36 PARAGRAPH (1) OF THIS SUBSECTION TO EACH EMPLOYEE AT THE TIME THE  
37 EMPLOYEE IS HIRED OR REHIRED AFTER A LAPSE IN THE EMPLOYEE'S  
38 EMPLOYMENT.

39 (E) THE ATTORNEY GENERAL AND THE STATE'S ATTORNEY OF EACH  
40 COUNTY SHALL:

41 (1) INVESTIGATE COMPLAINTS OF VIOLATIONS OF THIS SECTION; AND

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1 (2) ENFORCE THE PROVISIONS OF THIS SECTION.

2 (F) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, ACTUAL OR  
3 THREATENED VIOLATIONS OF THIS SECTION MAY BE ENJOINED.

4 (2) AN INDIVIDUAL WHO IS INJURED AS A RESULT OF A VIOLATION OF  
5 THIS SECTION IS ENTITLED TO RECOVER DAMAGES.

6 (G) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR  
7 AND SHALL BE SUBJECT TO A FINE NOT TO EXCEED \$1,000 OR IMPRISONMENT FOR A  
8 TERM NOT TO EXCEED 90 DAYS, OR BOTH.

9 (H) THE PROVISIONS OF THIS SECTION APPLY TO ALL PUBLIC AND PRIVATE  
10 EMPLOYMENT, INCLUDING ALL EMPLOYEES OF THE STATE AND THE COUNTIES AND  
11 MUNICIPAL CORPORATIONS OF THE STATE.

12 4-307.

13 A court does not have jurisdiction to grant injunctive relief that specifically or  
14 generally:

15 (1) prohibits a person from ceasing or refusing to perform work or to remain  
16 in a relation of employment, regardless of a promise to do the work or to remain in the  
17 relation;

18 (2) prohibits a person from becoming or remaining a member of an  
19 employer organization or labor organization, regardless of a promise described in § 4-304  
20 of this subtitle;

21 (3) prohibits a person from paying or giving to, or withholding from, another  
22 person any thing of value, including money or strike or unemployment benefits or  
23 insurance;

24 (4) prohibits a person from helping, by lawful means, another person to  
25 bring or defend against an action in a court of any state or the United States;

26 (5) prohibits a person from publicizing or obtaining or communicating  
27 information about the existence of or a fact involved in a labor dispute by any method that  
28 does not involve the act or threat of a breach of the peace, fraud, or violence, including:

29 (i) advertising;

30 (ii) speaking; and

31 (iii) patrolling, with intimidation or coercion, a public street or other  
32 place where a person lawfully may be;

33 (6) prohibits a person from ceasing:

34 (i) to patronize another person; or

35 (ii) to employ another person;

36 (7) prohibits a person from assembling peaceably to do or to organize an act  
37 listed in items (1) through (6) of this section;

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1                   (8) prohibits a person from advising or giving another person notice of an  
2 intent to do an act listed in items (1) through (7) of this section;

3                   (9) prohibits a person from agreeing with another person to do or not to do  
4 an act listed in items (1) through (8) of this section;

5                   (10) prohibits a person from advising, inducing, or urging another person,  
6 without the act or threat of fraud or violence, to do an act listed in items (1) through (9)  
7 of this section, regardless of a promise described in § 4-304 of this subtitle; or

8                   (11) on the ground that the persons are engaged in an unlawful conspiracy,  
9 prohibits a person from doing an act listed in items (1) through (10) of this section in  
10 concert with another person.

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