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By: **Delegates Wood, Kittleman, Getty, Minnick, DeCarlo, Morgan, Brinkley,  
and Faulkner**

Introduced and read first time: February 13, 1998  
Assigned to: Commerce and Government Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Human Relations Commission - Discrimination in Employment - Private**  
3 **Causes of 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  
8 of relief for violations of this Act; prohibiting a court from ordering certain types  
9 of relief for violations of this Act; and generally relating to the existence of  
10 private causes of action for certain discharges of employees by certain  
11 employers.

12 BY repealing and reenacting, without amendments,  
13 Article 49B - Human Relations Commission  
14 Section 11(e)  
15 Annotated Code of Maryland  
16 (1994 Replacement Volume and 1997 Supplement)

17 BY adding to  
18 Article 49B - Human Relations Commission  
19 Section 18A  
20 Annotated Code of Maryland  
21 (1994 Replacement Volume and 1997 Supplement)

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

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

25 11.

26 (e) If upon all the evidence, the hearing examiner finds that the respondent  
27 has engaged in any discriminatory act within the scope of any of these subtitles, the

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

26 18A.

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

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

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

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

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

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, 1998.