

SENATE BILL 480

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SB 586/97 - FIN

1998 Regular Session
8r1733

By: **Senators Derr, Ferguson, Neall, Hogan, and Stoltzfus**
Introduced and read first time: February 6, 1998
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Right to Work**

3 FOR the purpose of prohibiting employers and labor organizations from requiring
4 employees to join, remain members of, or pay dues to a labor organization;
5 requiring employers to provide certain information to employees; requiring
6 employees who permit employers to deduct from their compensation certain fees
7 or dues to give prior authorization for the deductions in a certain manner;
8 permitting these employees to revoke their authorization in a certain manner;
9 defining a certain term; providing for the investigation of complaints and
10 enforcement of violations of this Act; providing certain penalties and certain civil
11 relief for violations of this Act; and generally relating to labor organizations and
12 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 1997 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 1997 Supplement)

23 BY adding to
24 Article - Labor and Employment
25 Section 4-305
26 Annotated Code of Maryland
27 (1991 Volume and 1997 Supplement)

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

1

Article - Labor and Employment

2 4-301.

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

4 (b) "Injunctive relief" means:

5 (1) a permanent injunction;

6 (2) a temporary injunction; or

7 (3) a temporary restraining order.

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

10 (1) terms or conditions of employment;

11 (2) employment relations;

12 (3) the association or representation of persons in negotiating, setting,
13 maintaining, or changing terms or conditions of employment; or14 (4) any other controversy arising out of the respective interests of
15 employee or employer.16 (D) "LABOR ORGANIZATION" MEANS AN ORGANIZATION, AGENCY, UNION, OR
17 EMPLOYEE REPRESENTATION COMMITTEE THAT EXISTS FOR THE PURPOSE OF
18 DEALING WITH EMPLOYERS ON BEHALF OF EMPLOYEES CONCERNING WAGES,
19 RATES OF PAY, HOURS OF WORK, OR OTHER CONDITIONS OF EMPLOYMENT.20 [(d)] (E) "Person participating or interested in a labor dispute" means a
21 person against whom relief is sought if the person:22 (1) is engaged in the industry, craft, trade, or occupation in which the
23 dispute occurs; or24 (2) is an agent, member, or officer of an association of employees or
25 employers engaged in the industry, craft, trade, or occupation in which the dispute
26 occurs.27 (F) "PROMISE" MEANS ANY UNDERTAKING, WHETHER EXPRESS OR IMPLIED
28 OR ORAL OR WRITTEN.

29 4-302.

30 (a) The General Assembly finds that:

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

1 (2) in dealing with these employers, an individual worker who is not
2 represented by an organization is helpless to exercise liberty of contract or to protect
3 personal freedom of labor and, thus, to obtain acceptable terms and conditions of
4 employment.

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

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

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

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

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

13 1. designation of a representative;

14 2. self-organization; and

15 3. other concerted activity for the purpose of collective
16 bargaining or other mutual aid or protection.

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

20 4-303.

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

23 4-304.

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

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

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

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

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

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

3 (1) a party to the promise; or

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

6 4-305.

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

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

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

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

15 (2) AN EMPLOYEE MAY REVOKE A WRITTEN AUTHORIZATION MADE
16 UNDER PARAGRAPH (1) OF THIS SUBSECTION IF THE EMPLOYEE GIVES THE
17 EMPLOYER WRITTEN NOTICE 30 DAYS IN ADVANCE OF THE EFFECTIVE DATE OF THE
18 REVOCATION.

19 (3) AN EMPLOYER WHO RECEIVES A WRITTEN AUTHORIZATION FROM
20 AN EMPLOYEE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL NOTIFY THE
21 EMPLOYEE THAT IF THE EMPLOYEE GIVES THE EMPLOYER WRITTEN NOTICE 30
22 DAYS IN ADVANCE OF THE EFFECTIVE DATE OF THE REVOCATION, THE EMPLOYEE
23 MAY REVOKE THE AUTHORIZATION.

24 (C) AN EMPLOYER AND A LABOR ORGANIZATION MAY NOT ENTER INTO AN
25 ORAL OR WRITTEN AGREEMENT, CONTRACT, OR PROMISE IN VIOLATION OF THIS
26 SECTION.

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

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

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

5 (E) THE ATTORNEY GENERAL AND THE STATE'S ATTORNEY OF EACH COUNTY
6 SHALL:

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

8 (2) ENFORCE THE PROVISIONS OF THIS SECTION.

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

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

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

16 (H) THE PROVISIONS OF THIS SECTION APPLY TO ALL PUBLIC AND PRIVATE
17 EMPLOYMENT, INCLUDING ALL EMPLOYEES OF THE STATE AND ITS POLITICAL
18 SUBDIVISIONS.

19 4-307.

20 A court does not have jurisdiction to grant injunctive relief that specifically or
21 generally:

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

25 (2) prohibits a person from becoming or remaining a member of an
26 employer organization or labor organization, regardless of a promise described in §
27 4-304 of this subtitle;

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

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

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

- 1 (i) advertising;
- 2 (ii) speaking; and
- 3 (iii) patrolling, with intimidation or coercion, a public street or other
4 place where a person lawfully may be;
- 5 (6) prohibits a person from ceasing:
- 6 (i) to patronize another person; or
- 7 (ii) to employ another person;
- 8 (7) prohibits a person from assembling peaceably to do or to organize an
9 act listed in items (1) through (6) of this section;
- 10 (8) prohibits a person from advising or giving another person notice of an
11 intent to do an act listed in items (1) through (7) of this section;
- 12 (9) prohibits a person from agreeing with another person to do or not to
13 do an act listed in items (1) through (8) of this section;
- 14 (10) prohibits a person from advising, inducing, or urging another person,
15 without the act or threat of fraud or violence, to do an act listed in items (1) through
16 (9) of this section, regardless of a promise described in § 4-304 of this subtitle; or
- 17 (11) on the ground that the persons are engaged in an unlawful
18 conspiracy, prohibits a person from doing an act listed in items (1) through (10) of this
19 section in concert with another person.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 1998.