

HOUSE BILL 698

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2003 Regular Session
3r1565
CF 3r0966

By: **Delegates Mandel, Benson, Bobo, Bronrott, Cadden, V. Clagett, Conroy, Dumais, Feldman, Gaines, Goldwater, Griffith, Gutierrez, Healey, Hixson, Howard, Hubbard, Jameson, Jones, Kaiser, King, Kirk, Krysiak, Lee, Love, Madaleno, McIntosh, Menes, Montgomery, Murray, Nathan-Pulliam, Parker, Pendergrass, Ramirez, Ross, Stern, V. Turner, and Vaughn**

Introduced and read first time: February 7, 2003
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment - Equal Pay for Equal Work**

3 FOR the purpose of authorizing an affected employee to bring an action against an
4 employer to recover compensatory and punitive damages; requiring the
5 Commissioner of Labor and Industry to assess a certain penalty against an
6 employer who is found liable by virtue of a certain final judgment for monetary
7 damages; requiring the Commissioner of Labor and Industry to use the proceeds
8 of the penalty for certain purposes; establishing an Equal Pay Commission;
9 providing for the membership of the Commission; providing for the designation
10 of the Chairman of the Commission; providing for the staff of the Commission;
11 providing for certain reimbursement for members of the Commission; requiring
12 the Commission to study certain issues; requiring the Commission to report its
13 preliminary and final findings and recommendations to the Governor, the
14 President of the Senate, and the Speaker of the House of Delegates on or before
15 certain dates; requiring the Commission's preliminary and final reports to
16 include certain findings and recommendations; providing for the termination of
17 certain provisions of this Act; and generally relating to equal pay for equal work.

18 BY repealing and reenacting, with amendments,
19 Article - Labor and Employment
20 Section 3-307
21 Annotated Code of Maryland
22 (1999 Replacement Volume and 2002 Supplement)

23 BY adding to
24 Article - Labor and Employment
25 Section 3-309
26 Annotated Code of Maryland
27 (1999 Replacement Volume and 2002 Supplement)

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 3-307.

5 (a) (1) If an employer violates this subtitle, an affected employee may bring
6 an action against the employer to recover:

7 (I) the difference between the wages paid to male and female
8 employees who do the same type work and an additional equal amount as liquidated
9 damages; AND

10 (II) COMPENSATORY AND PUNITIVE DAMAGES.

11 (2) (I) IF AN EMPLOYER IS FOUND LIABLE BY VIRTUE OF A FINAL
12 JUDGMENT FOR ANY MONETARY DAMAGES UNDER THIS SUBTITLE, THE
13 COMMISSIONER SHALL ASSESS A PENALTY NOT EXCEEDING 10% OF THE AMOUNT OF
14 DAMAGES OWED.

15 (II) THE COMMISSIONER SHALL USE THE PROCEEDS OF THE CIVIL
16 PENALTY SOLELY FOR THE PURPOSE OF CARRYING OUT THE COMMISSIONER'S
17 RESPONSIBILITIES FOR THE ADMINISTRATION AND ENFORCEMENT OF THIS
18 SUBTITLE, INCLUDING THE RESEARCH MANDATED BY THIS SUBTITLE AND THE
19 ADMINISTRATION AND ENFORCEMENT OF THIS SUBTITLE.

20 [(2)] (3) An employee may bring an action on behalf of the employee and
21 other employees similarly affected.

22 (b) On the written request of an employee who is entitled to bring an action
23 under this section, the Commissioner may:

24 (1) take an assignment of the claim in trust for the employee;

25 (2) ask the Attorney General to bring an action in accordance with this
26 section on behalf of the employee; and

27 (3) consolidate 2 or more claims against an employer.

28 (c) An action under this section shall be filed within 3 years of the act on
29 which the action is based.

30 (d) The agreement of an employee to work for less than the wage to which the
31 employee is entitled under this subtitle is not a defense to an action under this
32 section.

33 (e) If a court determines that an employee is entitled to judgment in an action
34 under this section, the court shall allow against the employer reasonable counsel fees
35 and other costs of the action.

1 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
2 read as follows:

3 **Article - Labor and Employment**

4 3-309.

5 (A) THERE IS AN EQUAL PAY COMMISSION.

6 (B) THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS, APPOINTED
7 BY THE GOVERNOR:

8 (1) TWO REPRESENTATIVES OF BUSINESS IN THE STATE WHO HAVE
9 BEEN NOMINATED BY STATE BUSINESS ORGANIZATIONS AND BUSINESS TRADE
10 ASSOCIATIONS;

11 (2) TWO REPRESENTATIVES OF LABOR ORGANIZATIONS WHO HAVE
12 BEEN NOMINATED BY LABOR FEDERATIONS;

13 (3) TWO REPRESENTATIVES OF ORGANIZATIONS WHOSE OBJECTIVES
14 INCLUDE THE ELIMINATION OF PAY DISPARITIES BETWEEN MEN AND WOMEN AND
15 MINORITIES AND NONMINORITIES AND WHO HAVE UNDERTAKEN ADVOCACY,
16 EDUCATIONAL, OR LEGISLATIVE INITIATIVES IN PURSUIT OF THAT OBJECTIVE; AND

17 (4) THREE REPRESENTATIVES OF HIGHER EDUCATION OR RESEARCH
18 INSTITUTIONS WHO HAVE EXPERIENCE AND EXPERTISE IN THE COLLECTION AND
19 ANALYSIS OF DATA CONCERNING PAY DISPARITIES AND WHOSE RESEARCH HAS
20 BEEN USED IN EFFORTS TO PROMOTE THE ELIMINATION OF THOSE DISPARITIES.

21 (C) THE GOVERNOR SHALL DESIGNATE THE CHAIRMAN OF THE COMMISSION.

22 (D) THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION SHALL
23 PROVIDE STAFF FOR THE COMMISSION.

24 (E) A MEMBER OF THE COMMISSION:

25 (1) MAY NOT RECEIVE COMPENSATION; BUT

26 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
27 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

28 (F) THE COMMISSION SHALL STUDY:

29 (1) THE EXTENT OF WAGE DISPARITIES, BOTH IN THE PUBLIC AND
30 PRIVATE SECTORS, BETWEEN MEN AND WOMEN AND BETWEEN MINORITIES AND
31 NONMINORITIES;

32 (2) THOSE FACTORS WHICH CAUSE, OR WHICH TEND TO CAUSE, THE
33 DISPARITIES, INCLUDING SEGREGATION BETWEEN WOMEN AND MEN AND BETWEEN
34 MINORITIES AND NONMINORITIES ACROSS AND WITHIN OCCUPATIONS, PAYMENT OF

1 LOWER WAGES FOR WORK IN FEMALE-DOMINATED OCCUPATIONS, CHILD-REARING
2 RESPONSIBILITIES, AND EDUCATION AND TRAINING;

3 (3) THE CONSEQUENCES OF THE DISPARITIES ON THE ECONOMY AND
4 FAMILIES AFFECTED; AND

5 (4) ACTIONS, INCLUDING PROPOSED LEGISLATION, THAT ARE LIKELY
6 TO LEAD TO THE ELIMINATION AND PREVENTION OF THE DISPARITIES.

7 (G) THE COMMISSION SHALL:

8 (1) REPORT ITS PRELIMINARY FINDINGS AND RECOMMENDATIONS TO
9 THE GOVERNOR, THE PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE HOUSE
10 OF DELEGATES ON OR BEFORE SEPTEMBER 30, 2004; AND

11 (2) REPORT ITS FINAL FINDINGS AND RECOMMENDATIONS TO THE
12 GOVERNOR, THE PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE HOUSE OF
13 DELEGATES ON OR BEFORE SEPTEMBER 30, 2005.

14 (H) THE COMMISSION'S PRELIMINARY AND FINAL REPORTS SHALL INCLUDE
15 THE RESULTS OF THE COMMISSION'S STUDY AS WELL AS RECOMMENDATIONS,
16 LEGISLATIVE AND OTHERWISE, FOR THE ELIMINATION AND PREVENTION OF
17 DISPARITIES IN WAGES BETWEEN MEN AND WOMEN AND MINORITIES AND
18 NONMINORITIES.

19 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2003. Section 2 of this Act shall remain effective for a period of 2 years and,
21 at the end of September 30, 2005, with no further action required by the General
22 Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.