
By: **Delegates Howard, Anderson, Burns, Gilleland, Goldwater,
Montgomery, Patterson, and Vaughn**
 Introduced and read first time: February 7, 2005
 Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment - Electronic Monitoring of Employees**

3 FOR the purpose of prohibiting certain employers from conducting electronic
 4 monitoring prior to providing employees with certain notice; requiring that the
 5 notice expressly state certain items of information; requiring that certain
 6 employers provide certain notice to employees who will be subject to electronic
 7 monitoring as a result of a change in an electronic monitoring practice;
 8 providing for certain exceptions to the notice requirements; defining certain
 9 terms; and generally relating to the monitoring of employee activities or
 10 communications through the use of certain electronic devices.

11 BY adding to
 12 Article - Labor and Employment
 13 Section 3-709
 14 Annotated Code of Maryland
 15 (1999 Replacement Volume and 2004 Supplement)

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

18 **Article - Labor and Employment**

19 3-709.

20 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 21 INDICATED.

22 (2) "ELECTRONIC MONITORING" MEANS THE COLLECTION OF
 23 INDIVIDUALLY IDENTIFIABLE INFORMATION CONCERNING EMPLOYEE ACTIVITIES
 24 OR COMMUNICATIONS THROUGH THE USE OF AN ELECTRONIC DEVICE, INCLUDING
 25 A COMPUTER, COMPUTER SOFTWARE, OR OTHER COMPUTER PROGRAM.

26 (3) "EMPLOYER" MEANS:

1 (I) A PERSON ENGAGED IN A BUSINESS, INDUSTRY, PROFESSION,
2 TRADE, OR OTHER ENTERPRISE IN THE STATE;

3 (II) THE STATE;

4 (III) A COUNTY; OR

5 (IV) A MUNICIPAL CORPORATION IN THE STATE.

6 (B) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, AN
7 EMPLOYER MAY NOT ENGAGE IN ELECTRONIC MONITORING OF AN EMPLOYEE
8 BEFORE PROVIDING AN EMPLOYEE WITH NOTICE DESCRIBED UNDER SUBSECTION
9 (C) OF THIS SECTION.

10 (C) (1) A NOTICE REQUIRED UNDER THIS SECTION SHALL EXPRESSLY
11 STATE:

12 (I) THE FORM OF COMMUNICATION OR OTHER ACTIVITY THAT
13 WILL BE MONITORED;

14 (II) THE MEANS BY WHICH MONITORING WILL BE ACCOMPLISHED;

15 (III) THE FREQUENCY OF THE MONITORING; AND

16 (IV) HOW INFORMATION OBTAINED BY THE MONITORING WILL BE
17 STORED, USED, OR DISCLOSED.

18 (2) TO COMPLY WITH THIS SUBSECTION, AN EMPLOYER MAY INCLUDE
19 THE NOTICE DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION IN AN
20 EMPLOYEE HANDBOOK.

21 (3) AN EMPLOYER SHALL PROVIDE THE NOTICE DESCRIBED UNDER
22 THIS SUBSECTION TO ALL EMPLOYEES WHO WILL BE SUBJECT TO ELECTRONIC
23 MONITORING AS A RESULT OF A CHANGE IN AN ELECTRONIC MONITORING
24 PRACTICE.

25 (D) AN EMPLOYER MAY CONDUCT ELECTRONIC MONITORING WITHOUT
26 NOTICE TO AN EMPLOYEE IF THE EMPLOYER HAS REASONABLE GROUNDS TO
27 BELIEVE THAT:

28 (1) A PARTICULAR EMPLOYEE OF THE EMPLOYER IS ENGAGING IN
29 UNLAWFUL CONDUCT; AND

30 (2) ELECTRONIC MONITORING WILL PRODUCE EVIDENCE OF THE
31 EMPLOYEE'S UNLAWFUL CONDUCT.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2005.