UNOFFICIAL COPY OF SENATE BILL 817

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By: **Senator Exum** Introduced and read first time: February 3, 2006 Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

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Worker Freedom Act of 2006

3 FOR the purpose of prohibiting an employer from requiring an employee to attend an

4 employer-sponsored event for the purpose of communicating the employer's

5 opinion regarding religious and political matters; prohibiting an employer from 6 taking, or threatening to take, certain disciplinary actions against an employee

for certain purposes; authorizing an employee to take certain civil action against

8 an employer in a certain manner for a violation of this Act; authorizing a certain

9 circuit court to award certain costs and fees to a prevailing employee; defining

10 certain terms; providing for the application and construction of this Act; and

11 generally relating to the communication of the opinions of employers regarding

12 religious and political matters.

13 BY adding to

- 14 Article Labor and Employment
- 15 Section 3-709

16 Annotated Code of Maryland

17 (1999 Replacement Volume and 2005 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

19 MARYLAND, That the Laws of Maryland read as follows:

- 20 **Article - Labor and Employment** 21 3-709. IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS 22 (A) (1)23 INDICATED. 24 (2)(I) "EMPLOYER" MEANS: 25 1. A PERSON ENGAGED IN BUSINESS, INDUSTRY, 26 PROFESSION, TRADE, OR OTHER ENTERPRISE IN THE STATE;
- 27 2. THE STATE AND ITS UNITS;

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3. A COUNTY AND ITS UNITS; AND

4. A MUNICIPAL CORPORATION AND ITS UNITS.

3 (II) "EMPLOYER" INCLUDES AN AGENT, REPRESENTATIVE, OR 4 DESIGNEE OF THE EMPLOYER.

5 (3) "LABOR ORGANIZATION" MEANS AN ORGANIZATION THAT EXISTS
6 FOR THE PURPOSE, IN WHOLE OR IN PART, OF COLLECTIVE BARGAINING OR OF
7 DEALING WITH EMPLOYERS CONCERNING GRIEVANCES, TERMS OR CONDITIONS OF
8 EMPLOYMENT, OR OF OTHER MUTUAL AID OR PROTECTION IN CONNECTION WITH
9 EMPLOYMENT.

(4) "POLITICAL MATTERS" INCLUDES POLITICAL PARTY AFFILIATION OR
 11 THE DECISION TO JOIN OR NOT JOIN A LAWFUL POLITICAL, SOCIAL, OR COMMUNITY
 12 GROUP OR ACTIVITY OR ANY LABOR ORGANIZATION.

13 (B) THIS SECTION DOES NOT APPLY TO:

14 (1) A RELIGIOUS ORGANIZATION THAT REQUIRES EMPLOYEES OF THE
15 ORGANIZATION TO ATTEND AN EMPLOYER-SPONSORED MEETING OR TO
16 PARTICIPATE IN ANY COMMUNICATIONS WITH THE EMPLOYER FOR THE PRIMARY
17 PURPOSE OF COMMUNICATING THE EMPLOYER'S RELIGIOUS BELIEFS, PRACTICES,
18 OR TENETS; OR

19(2)A POLITICAL ORGANIZATION THAT REQUIRES EMPLOYEES OF THE20ORGANIZATION TO ATTEND AN EMPLOYER-SPONSORED MEETING OR TO21PARTICIPATE IN ANY COMMUNICATIONS WITH THE EMPLOYER FOR THE PRIMARY22PURPOSE OF COMMUNICATING THE EMPLOYER'S POLITICAL TENETS OR PURPOSES.

23 (C) AN EMPLOYER MAY NOT REQUIRE AN EMPLOYEE TO ATTEND AN
24 EMPLOYER-SPONSORED MEETING OR PARTICIPATE IN ANY COMMUNICATIONS WITH
25 THE EMPLOYER FOR THE PURPOSE OF COMMUNICATING THE EMPLOYER'S OPINION
26 REGARDING RELIGIOUS OR POLITICAL MATTERS.

27 (D) (1) THIS SUBSECTION DOES NOT APPLY IF AN EMPLOYEE
28 INTENTIONALLY FILES A FALSE ORAL OR WRITTEN REPORT OF AN ALLEGED
29 VIOLATION OF SUBSECTION (C) OF THIS SECTION.

30 (2) AN EMPLOYER MAY NOT DISCHARGE, DISCIPLINE, OR OTHERWISE
31 PENALIZE OR THREATEN TO DISCHARGE, DISCIPLINE, OR OTHERWISE PENALIZE AN
32 EMPLOYEE:

33 (I) IN ORDER TO REQUIRE AN EMPLOYEE TO ATTEND A MEETING
 34 OR PARTICIPATE IN COMMUNICATIONS DESCRIBED IN SUBSECTION (C) OF THIS
 35 SECTION; OR

36 (II) BECAUSE THE EMPLOYEE, OR A PERSON ACTING ON BEHALF
37 OF THE EMPLOYEE, MAKES A GOOD-FAITH ORAL OR WRITTEN REPORT OF A
38 VIOLATION OF SUBSECTION (C) OF THIS SECTION.

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(E) (1) AN EMPLOYEE MAY BRING A CIVIL ACTION AGAINST AN EMPLOYER
 THAT VIOLATES ANY PROVISION OF THIS SECTION AFTER NO MORE THAN 90 DAYS
 AFTER THE ALLEGED VIOLATION IN A CIRCUIT COURT FOR THE COUNTY IN WHICH
 THE ALLEGED VIOLATION OCCURRED OR THE COUNTY IN WHICH THE PRINCIPAL
 OFFICE OF THE EMPLOYER IS LOCATED.

6 (2) THE CIRCUIT COURT SHALL AWARD A PREVAILING EMPLOYEE:

7 (I) TREBLE DAMAGES;

8 (II) REASONABLE ATTORNEY'S FEES; AND

9 (III) REASONABLE COSTS OF LITIGATION.

10 (3) THE CIRCUIT COURT MAY AWARD A PREVAILING EMPLOYEE ALL 11 APPROPRIATE RELIEF, INCLUDING:

12 (I) REINSTATEMENT OF THE EMPLOYEE TO THE EMPLOYEE'S 13 FORMER POSITION;

14 (II) BACK PAY; AND

15(III)REESTABLISHMENT OF ANY EMPLOYEE BENEFITS THE16EMPLOYEE WOULD HAVE BEEN ENTITLED TO HAD THE VIOLATION NOT OCCURRED.

(F) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT AN
 EMPLOYEE'S RIGHT TO BRING A COMMON LAW CAUSE OF ACTION AGAINST AN
 EMPLOYER FOR WRONGFUL TERMINATION OR TO DIMINISH OR IMPAIR THE RIGHTS
 OF A PERSON UNDER ANY COLLECTIVE BARGAINING AGREEMENT.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 22 October 1, 2006.

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