

HOUSE BILL 52

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9lr0793

By: **The Speaker (By Request - Department of Legislative Services - Code Revision)**

Introduced and read first time: January 15, 2009

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: February 18, 2009

CHAPTER _____

1 AN ACT concerning

2 **Human Relations - Cross-References and Corrections**

3 FOR the purpose of correcting certain cross-references to Article 49B (Human
4 Relations Commission) in the Annotated Code of Maryland; correcting a certain
5 error in provisions of law relating to remedies available in a certain civil action;
6 making certain technical and stylistic changes; and generally relating to the
7 revision of Article 49B of the Code and cross-references and corrections to it.

8 BY repealing and reenacting, with amendments,
9 Article - Business Occupations and Professions
10 Section 17-526(a) and (d)
11 Annotated Code of Maryland
12 (2004 Replacement Volume and 2008 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article - Business Regulation
15 Section 15-202
16 Annotated Code of Maryland
17 (2004 Replacement Volume and 2008 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article - Economic Development
20 Section 5-435
21 Annotated Code of Maryland
22 (2008 Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



- 1 BY repealing and reenacting, with amendments,
 2 Article – Health – General
 3 Section 19–355
 4 Annotated Code of Maryland
 5 (2005 Replacement Volume and 2008 Supplement)
- 6 BY repealing and reenacting, with amendments,
 7 Article – Public Safety
 8 Section 12–202(h)
 9 Annotated Code of Maryland
 10 (2003 Volume and 2008 Supplement)
- 11 BY repealing and reenacting, with amendments,
 12 Article – State Finance and Procurement
 13 Section 19–107(a) and (d)(1) and 19–108(b)
 14 Annotated Code of Maryland
 15 (2006 Replacement Volume and 2008 Supplement)
- 16 BY repealing and reenacting, with amendments,
 17 Article – State Government
 18 Section 10–205(b) and 10–617(b)(1)
 19 Annotated Code of Maryland
 20 (2004 Replacement Volume and 2008 Supplement)
- 21 BY repealing and reenacting, without amendments,
 22 Article – State Government
 23 Section 20–1013(d)
 24 Annotated Code of Maryland
 25 (As enacted by Chapter _____ (H.B. 51) of the Acts of the General Assembly of
 26 2009)
- 27 BY repealing and reenacting, with amendments,
 28 Article – State Government
 29 Section 20–1013(e)
 30 Annotated Code of Maryland
 31 (As enacted by Chapter _____ (H.B. 51) of the Acts of the General Assembly of
 32 2009)
- 33 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 34 MARYLAND, That the Laws of Maryland read as follows:
- 35 **Article – Business Occupations and Professions**
- 36 17–526.
- 37 (a) The purpose of this section is to prohibit certain discriminatory real
 38 estate practices with respect to housing in Montgomery County to:

1 (1) ensure fair and equal real estate housing practices for all of its
2 residents, regardless of race, color, religion, sex, marital status, national origin, or, as
3 defined in [Article 49B, § 19 of the Code, physical or mental handicap] § **20-701 OF**
4 **THE STATE GOVERNMENT ARTICLE, DISABILITY;**

5 (2) provide fair and equal real estate housing opportunities for all of
6 its residents, regardless of race, color, religion, sex, marital status, national origin, or,
7 as defined in [Article 49B, § 19 of the Code, physical or mental handicap] § **20-701 OF**
8 **THE STATE GOVERNMENT ARTICLE, DISABILITY;**

9 (3) ensure fair and equal real estate housing practices and provide fair
10 and equal real estate housing opportunities for those individuals who are at least 62
11 years of age; and

12 (4) protect and ensure the peace, health, safety, prosperity, and
13 general welfare of all residents of Montgomery County.

14 (d) (1) A real estate broker, an associate real estate broker, or a real
15 estate salesperson may not refuse to show any residential property or prospective site
16 for a residence that is available for sale, rent, or sublease to a prospective buyer or
17 renter because of:

18 (i) the race, color, religion, sex, marital status, national origin,
19 or, as defined [by Article 49B, § 19 of the Code, physical or mental handicap] **IN §**
20 **20-701 OF THE STATE GOVERNMENT ARTICLE, DISABILITY** of the prospective
21 buyer or renter; or

22 (ii) the composition or character of the neighborhood where the
23 property is located.

24 (2) If the representation is made because of the race, color, religion,
25 sex, marital status, national origin, or, as defined [by Article 49B, § 19 of the Code,
26 physical or mental handicap] **IN § 20-701 OF THE STATE GOVERNMENT ARTICLE,**
27 **DISABILITY** of the prospective buyer or renter or because of the composition or
28 character of the neighborhood where the property is located, a real estate broker, an
29 associate real estate broker, or a real estate salesperson may not represent to a
30 prospective buyer or renter that the available residential properties, prospective sites
31 for a residence, or listings in a specified price range are limited to those already shown
32 when, in fact, there is an additional residential property, a prospective site for a
33 residence, or a listing in a specified price range that is available and within the price
34 range specified by the prospective buyer or renter.

35 Article – Business Regulation

1 Except as provided in this subtitle for an individual who is under the age of 21
2 years, this subtitle may not be construed to alter the prohibition against
3 discrimination by an innkeeper or lodging establishment [established] under [Article
4 49B, § 5 of the Code] **TITLE 20, SUBTITLE 3 OF THE STATE GOVERNMENT**
5 **ARTICLE.**

6 **Article – Economic Development**

7 5–435.

8 Financial assistance under this subtitle is:

9 (1) subject to the provisions of [Article 49B of the Code] **TITLE 20 OF**
10 **THE STATE GOVERNMENT ARTICLE** concerning discrimination and unlawful
11 practices; and

12 (2) not subject to Title 17, Subtitle 1 of the State Finance and
13 Procurement Article (Security for construction projects).

14 **Article – Health – General**

15 19–355.

16 (a) A hospital or related institution may not discriminate in providing
17 personal care for an individual because of the race, color, or national origin of the
18 individual.

19 (b) The Commission on Human Relations shall enforce this section as
20 provided in [Article 49B of the Code] **TITLE 20 OF THE STATE GOVERNMENT**
21 **ARTICLE.**

22 **Article – Public Safety**

23 12–202.

24 (h) (1) The Department shall cooperate with and provide technical
25 assistance to the Human Relations Commission concerning an action brought by the
26 Human Relations Commission to enforce [Article 49B, § 22 of the Code] **§ 20–705 OR**
27 **§ 20–706 OF THE STATE GOVERNMENT ARTICLE.**

28 (2) This section does not limit the authority of the Human Relations
29 Commission to enforce [Article 49B, § 22 of the Code] **§§ 20–705 AND 20–706 OF THE**
30 **STATE GOVERNMENT ARTICLE.**

31 **Article – State Finance and Procurement**

32 19–107.

1 (a) Commission staff shall be responsible for directing and conducting
2 investigations of discrimination and retaliation complaints filed under this title in a
3 manner consistent with [Article 49B, §§ 3, 10, and 11] §§ **20-208, 20-1005,**
4 **20-1006, 20-1008, 20-1009, AND 20-1010 OF THE STATE GOVERNMENT**
5 **ARTICLE.**

6 (d) (1) Consistent with [Article 49B, § 13 of the Code] § **20-1101 OF THE**
7 **STATE GOVERNMENT ARTICLE**, the Public Information Act, and the Open Meetings
8 Act, the Commission shall protect the confidential character of information relating to
9 an investigation and may issue protective orders for good cause to limit, or otherwise
10 impose conditions on, access by any person to any document in the possession of a
11 party.

12 19-108.

13 (b) Based on a review and investigation consistent with [Article 49B, § 10 of
14 the Code] § **20-1005 OF THE STATE GOVERNMENT ARTICLE**, Commission staff
15 shall make an initial finding of each allegation stated in the complaint, that either:

16 (1) the investigation produced sufficient evidence to find that the
17 alleged discrimination or retaliation did take place (“probable cause”);

18 (2) the investigation failed to produce sufficient evidence to find that
19 the alleged discrimination or retaliation took place (“no probable cause”);

20 (3) the investigation produced sufficient evidence to establish that the
21 complainant knowingly made one or more false or frivolous allegations, and further
22 investigation did not appear likely to produce sufficient evidence that the alleged
23 discrimination or retaliation did take place (“false or frivolous”);

24 (4) the allegation has been settled or otherwise resolved with the
25 agreement of the respondent business entity, the complainant, and the State
26 (“settled”); or

27 (5) the allegation has been withdrawn (“withdrawn”).

28 **Article – State Government**

29 10-205.

30 (b) An agency may delegate to the Office the authority to issue:

31 (1) proposed or final findings of fact;

32 (2) proposed or final conclusions of law;

- 1 (3) proposed or final findings of fact and conclusions of law;
- 2 (4) proposed or final orders or orders under [Article 49B of the Code]
- 3 **TITLE 20 OF THIS ARTICLE**; or
- 4 (5) the final administrative decision of an agency in a contested case.

5 10-617.

- 6 (b) (1) In this subsection, “disability” has the meaning stated in [Article
- 7 49B, § 20 of the Code] § **20-701 OF THIS ARTICLE**.

8 20-1013.

- 9 (d) If the court finds that a discriminatory act occurred, the court may
- 10 provide the remedies specified in § 20-1009(b) of this subtitle.

- 11 (e) **(1)** In addition to the relief authorized under subsection (d) of this
- 12 section, the court may award punitive damages, if:

13 [(1)] (I) the respondent is not a governmental unit or political

14 subdivision; and

15 [(2)] (II) the court finds that the respondent has engaged in or is

16 engaging in an unlawful employment practice with actual malice.

17 **(2) IF THE COURT AWARDS PUNITIVE DAMAGES, THE SUM OF THE**

18 **AMOUNT OF COMPENSATORY DAMAGES AWARDED TO EACH COMPLAINANT**

19 **UNDER SUBSECTION (D) OF THIS SECTION AND THE AMOUNT OF PUNITIVE**

20 **DAMAGES AWARDED UNDER THIS SUBSECTION MAY NOT EXCEED THE**

21 **APPLICABLE LIMITATION ESTABLISHED UNDER § ~~20-2009(B)(3)~~**

22 **20-1009(B)(3) OF THIS SUBTITLE.**

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect

24 October 1, 2009.