

# HOUSE BILL 53

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9lr0792

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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

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## A BILL ENTITLED

1 AN ACT concerning

2 **Human Relations - Substantive Modifications**

3 FOR the purpose of repealing obsolete provisions of law relating to hearing examiners  
4 appointed by the Commission on Human Relations; prohibiting discrimination  
5 by certain licensed or regulated persons on the basis of age; prohibiting  
6 discrimination in the leasing of commercial property on the basis of sexual  
7 orientation; prohibiting discrimination in the leasing of commercial property  
8 against a person, rather than an individual; prohibiting certain notices or  
9 advertisements relating to employment from indicating any preference,  
10 limitation, specification, or discrimination based on marital status; altering the  
11 definition of "disability" for purposes of provisions prohibiting discrimination in  
12 housing; authorizing a certain complainant to file a request for reconsideration  
13 of a certain finding; providing that an administrative law judge, rather than the  
14 Commission, may allow a certain complaint or answer to be reasonably  
15 amended; establishing that a certain decision and order issued by an  
16 administrative law judge shall become the final order of the Commission under  
17 certain circumstances; repealing a requirement that certain judicial review  
18 standards govern the court in a certain action to enforce compliance with a  
19 certain order of the Commission; expanding the relief available to an  
20 intervening party in a certain action; repealing a provision making it a  
21 misdemeanor to file and pursue a complaint of discrimination under certain  
22 circumstances; repealing a provision making it a misdemeanor to receive  
23 remuneration for participation in a racial demonstration in the State; correcting  
24 cross-references and clarifying language in provisions of law relating to  
25 employment practices by persons granted certain privileges by the Maryland  
26 Aviation Administration; and generally making substantive modifications,  
27 clarifications, and corrections in provisions of law relating to human relations.

28 BY repealing

29 Article - State Government

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 20–207, 20–1104, and 20–1105  
2 Annotated Code of Maryland  
3 (As enacted by Chapter \_\_\_\_ (H.B. \_\_\_\_)(9lr0791) of the Acts of the General  
4 Assembly of 2009)

5 BY repealing and reenacting, with amendments,  
6 Article – State Government  
7 Section 20–402, 20–501, 20–606(e), 20–701(b)(1), 20–1005(d), 20–1008(e),  
8 20–1011, 20–1014(c)  
9 Annotated Code of Maryland  
10 (As enacted by Chapter \_\_\_\_ (H.B. \_\_\_\_)(9lr0791) of the Acts of the General  
11 Assembly of 2009)

12 BY adding to  
13 Article – State Government  
14 Section 20–1009(e)  
15 Annotated Code of Maryland  
16 (As enacted by Chapter \_\_\_\_ (H.B. \_\_\_\_)(9lr0791) of the Acts of the General  
17 Assembly of 2009)

18 BY repealing and reenacting, with amendments,  
19 Article – Transportation  
20 Section 5–408  
21 Annotated Code of Maryland  
22 (2008 Replacement Volume)

23 BY renumbering  
24 Article – State Government  
25 Section 20–208  
26 to be Section 20–207  
27 Annotated Code of Maryland  
28 (As enacted by Chapter \_\_\_\_ (H.B. \_\_\_\_)(9lr0791) of the Acts of the General  
29 Assembly of 2009)

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

32 **Article – State Government**

33 [20–207.

34 (a) The Commission shall appoint the number of hearing examiners provided  
35 in the State budget.

36 (b) A hearing examiner shall be an attorney who is qualified by experience to  
37 handle discrimination cases of the type arising under this title.

1 (c) A hearing examiner is entitled to the compensation provided in the State  
2 budget.

3 (d) In a discrimination case assigned to a hearing examiner, the hearing  
4 examiner shall:

- 5 (1) conduct a hearing;
- 6 (2) make findings of fact;
- 7 (3) draw conclusions of law; and
- 8 (4) prepare a provisional order.

9 (e) A provisional order prepared by a hearing examiner shall become the  
10 final order of the Commission unless an appeal from the provisional order is taken to  
11 the Commission.]

12 20-402.

13 A person that is licensed or regulated by a unit in the Department of Labor,  
14 Licensing, and Regulation listed in § 2-108 of the Business Regulation Article may not  
15 refuse, withhold from, or deny any person any of the accommodations, advantages,  
16 facilities, privileges, sales, or services of the licensed or regulated person or  
17 discriminate against any person because of the person's race, sex, creed, color, national  
18 origin, marital status, sexual orientation, **AGE**, or disability.

19 20-501.

20 An owner or operator of commercial property, an agent or employee of the owner  
21 or operator of commercial property, or a person that is licensed or regulated by the  
22 State may not discriminate against [an individual] **A PERSON** in the terms,  
23 conditions, or privileges of the leasing of property for commercial use, or in the  
24 provision of services or facilities in connection with the leasing of property for  
25 commercial use, because of the [individual's] **PERSON'S** race, color, religion, sex, age,  
26 disability, marital status, **SEXUAL ORIENTATION**, or national origin.

27 20-606.

28 (e) (1) Except as provided in paragraph (2) of this subsection, an  
29 employer, labor organization, or employment agency may not print or cause to be  
30 printed or published any notice or advertisement relating to employment by the  
31 employer, membership in or any classification or referral for employment by the labor  
32 organization, or any classification or referral for employment by the employment  
33 agency that indicates any preference, limitation, specification, or discrimination based  
34 on race, color, religion, sex, age, national origin, **MARITAL STATUS**, sexual orientation,  
35 or disability.

1           (2) A notice or advertisement may indicate a preference, limitation,  
2 specification, or discrimination based on religion, sex, age, national origin, **MARITAL**  
3 **STATUS**, or disability if religion, sex, age, national origin, **MARITAL STATUS**, or  
4 disability is a bona fide occupational qualification for employment.

5 20-701.

6           (b) (1) "Disability" means:

7                   (i) a [disability] **PHYSICAL OR MENTAL IMPAIRMENT** that  
8 substantially limits one or more of an individual's major life activities;

9                   (ii) a record of having a [disability] **PHYSICAL OR MENTAL**  
10 **IMPAIRMENT** that substantially limits one or more of an individual's major life  
11 activities; or

12                   (iii) being regarded as having a [disability] **PHYSICAL OR**  
13 **MENTAL IMPAIRMENT** that substantially limits one or more of an individual's major  
14 life activities.

15 20-1005.

16           (d) (1) **IF THERE IS A FINDING OF NO PROBABLE CAUSE TO BELIEVE**  
17 **THAT A DISCRIMINATORY ACT HAS BEEN OR IS BEING COMMITTED, THE**  
18 **COMPLAINANT MAY FILE A REQUEST FOR RECONSIDERATION OF THE FINDING**  
19 **IN ACCORDANCE WITH THE COMMISSION'S REGULATIONS.**

20           (2) Unless the U.S. Equal Employment Opportunity Commission has  
21 jurisdiction over the subject matter of the complaint, a denial of a request for  
22 reconsideration of a finding of no probable cause by the Commission is a final order  
23 appealable to the circuit court as provided in § 10-222 of this article.

24 20-1008.

25           (e) The [Commission] **ADMINISTRATIVE LAW JUDGE** may allow any  
26 complaint or answer to be reasonably amended.

27 20-1009.

28           **(E) UNLESS A TIMELY APPEAL IS FILED WITH THE COMMISSION IN**  
29 **ACCORDANCE WITH THE COMMISSION'S REGULATIONS, A DECISION AND ORDER**  
30 **ISSUED BY THE ADMINISTRATIVE LAW JUDGE UNDER THIS SECTION SHALL**  
31 **BECOME THE FINAL ORDER OF THE COMMISSION.**

32 20-1011.

1            [(a)] If a respondent refuses to comply with an order of the Commission issued  
2 under this title, the Commission may bring a civil action to enforce compliance with  
3 the order in the appropriate equity court of the county where the alleged  
4 discriminatory act occurred.

5            [(b)] The judicial review standards set forth in Title 10, Subtitle 2 of this  
6 article shall govern the court in hearing a case brought under this section.]

7 20–1014.

8            (c) The court may grant any appropriate relief to an intervening party that  
9 may be granted to a plaintiff in a civil action under [§ 20–1012] § **20–1013** of this  
10 subtitle.

11 [20–1104.

12            (a) This section does not affect the right of a respondent to bring a civil  
13 action against a person that has filed a complaint under Subtitle 10, Part I of this title.

14            (b) A person is guilty of a misdemeanor if:

15                    (1) the person has claimed to be aggrieved under Subtitle 10, Part I of  
16 this title;

17                    (2) the person has pursued the complaint under §§ 20–1006 and  
18 20–1008 through 20–1011 of this title;

19                    (3) the Commission has:

20                            (i) found the complaint to be unfounded; or

21                            (ii) dismissed the complaint without further action against the  
22 respondent; and

23                    (4) the court has found the complaint to have been made maliciously.

24            (c) A person convicted under this section is subject to imprisonment not  
25 exceeding 1 year or a fine not exceeding \$500 or both.]

26 [20–1105.

27            (a) A person may not receive any remuneration for participation in a racial  
28 demonstration in the State.

1 (b) A person who violates this section is guilty of a misdemeanor and on  
2 conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding  
3 \$1,000 or both.]

4 **Article – Transportation**

5 5–408.

6 (a) In its operation of an airport, airport facility, or air navigation facility  
7 owned or controlled by this State, the Administration, with the approval of the  
8 Secretary and subject to the direction of the Commission, may contract, lease, or  
9 otherwise arrange with any person to:

10 (1) Provide the person with services furnished by the Administration  
11 or its agents at the airport or facility; or

12 (2) Grant to the person the privilege of:

13 (i) Using or improving for commercial purposes any part of the  
14 airport or facility; or

15 (ii) Supplying services, facilities, goods, commodities, or other  
16 things at the airport or facility.

17 (b) (1) For the privileges granted, the Administration may establish any  
18 terms and conditions and fix any charges, rentals, or fees that:

19 (i) Are reasonable and uniform for the same class of privilege or  
20 service;

21 (ii) Are established with due regard to the property and  
22 improvements used and the expenses of operation to this State; and

23 (iii) Do not deprive the public of its rightful, equal, and uniform  
24 use of any part of the airport or facility.

25 (2) The Administration shall monitor the charges, fees, or prices of any  
26 goods or services offered to the public by persons granted the privilege under this  
27 section. Every contract, lease, or other arrangement shall provide that charges, fees, or  
28 prices:

29 (i) May not be increased without the prior approval of the  
30 Administration; and

31 (ii) Are to be reasonable. In determining reasonableness the  
32 Administration shall consider the charges, fees, or prices for the same goods or  
33 services at comparable airports.

1           (3)    The Administration shall [monitor]:

2                    (I)    **MONITOR** the employment practices [of persons granted  
3 privileges under Article 49B, § 14 of the Code, relating to discrimination in  
4 employment,] **UNDER TITLE 20, SUBTITLE 6 OF THE STATE GOVERNMENT**  
5 **ARTICLE OF PERSONS GRANTED PRIVILEGES UNDER THIS SECTION;** and [shall  
6 refer]

7                    (II)   **REFER** for investigation all alleged violations of [Article  
8 49B, § 14] § **20-606 OF THE STATE GOVERNMENT ARTICLE** to the State  
9 Commission [of] **ON** Human Relations, the Equal Employment Opportunity  
10 Commission, or any appropriate State or federal administrative body.

11           (c)   (1)   In this subsection “commercial activity” means the sale,  
12 merchandising, marketing, or promotion of any goods or services.

13                   (2)   Commercial activity is permitted at an airport operated by the  
14 Administration only when expressly authorized by and in a manner prescribed by the  
15 Administration.

16           SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 20–208 of  
17 Article – State Government of the Annotated Code of Maryland (as enacted by Chapter  
18 \_\_ (H.B. \_\_)(9lr0791) of the Acts of the General Assembly of 2009) be renumbered to  
19 be Section(s) 20–207.

20           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
21 October 1, 2009.