

HOUSE BILL 53

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9lr0792

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

Read second time: March 22, 2009

CHAPTER _____

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

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 Aviation Administration; and generally making substantive modifications,
2 clarifications, and corrections in provisions of law relating to human relations.

3 BY repealing

4 Article – State Government

5 Section 20–207, ~~20–1104~~, and 20–1105

6 Annotated Code of Maryland

7 (As enacted by Chapter ____ (H.B. ____)(9lr0791) of the Acts of the General
8 Assembly of 2009)

9 BY repealing and reenacting, with amendments,

10 Article – State Government

11 Section 20–402, ~~20–501~~, 20–606(e), 20–701(b)(1), 20–1005(d), 20–1008(e),
12 20–1011, and 20–1014(c)

13 Annotated Code of Maryland

14 (As enacted by Chapter ____ (H.B. ____)(9lr0791) of the Acts of the General
15 Assembly of 2009)

16 BY adding to

17 Article – State Government

18 Section 20–1009(e)

19 Annotated Code of Maryland

20 (As enacted by Chapter ____ (H.B. ____)(9lr0791) of the Acts of the General
21 Assembly of 2009)

22 BY repealing and reenacting, with amendments,

23 Article – Transportation

24 Section 5–408

25 Annotated Code of Maryland

26 (2008 Replacement Volume)

27 BY renumbering

28 Article – State Government

29 Section 20–208

30 to be Section 20–207

31 Annotated Code of Maryland

32 (As enacted by Chapter ____ (H.B. ____)(9lr0791) of the Acts of the General
33 Assembly of 2009)

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

36 **Article – State Government**

37 [20–207.

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

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

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

7 (d) In a discrimination case assigned to a hearing examiner, the hearing
8 examiner shall:

9 (1) conduct a hearing;

10 (2) make findings of fact;

11 (3) draw conclusions of law; and

12 (4) prepare a provisional order.

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

16 20-402.

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

23 ~~20-501.~~

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

31 20-606.

32 (e) (1) Except as provided in paragraph (2) of this subsection, an
33 employer, labor organization, or employment agency may not print or cause to be

1 printed or published any notice or advertisement relating to employment by the
2 employer, membership in or any classification or referral for employment by the labor
3 organization, or any classification or referral for employment by the employment
4 agency that indicates any preference, limitation, specification, or discrimination based
5 on race, color, religion, sex, age, national origin, **MARITAL STATUS**, sexual orientation,
6 or disability.

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

11 20-701.

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

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

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

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

21 20-1005.

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

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

30 20-1008.

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

33 20-1009.

1 (E) UNLESS A TIMELY APPEAL IS FILED WITH THE COMMISSION IN
2 ACCORDANCE WITH THE COMMISSION'S REGULATIONS, A DECISION AND ORDER
3 ISSUED BY THE ADMINISTRATIVE LAW JUDGE UNDER THIS SECTION SHALL
4 BECOME THE FINAL ORDER OF THE COMMISSION.

5 20-1011.

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

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

12 20-1014.

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

16 ~~[20-1104.~~

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

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

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

22 ~~(2) the person has pursued the complaint under §§ 20-1006 and~~
23 ~~20-1008 through 20-1011 of this title;~~

24 ~~(3) the Commission has:~~

25 ~~(i) found the complaint to be unfounded; or~~

26 ~~(ii) dismissed the complaint without further action against the~~
27 ~~respondent; and~~

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

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

31 [20-1105.

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

3 (b) A person who violates this section is guilty of a misdemeanor and on
4 conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding
5 \$1,000 or both.]

6 Article - Transportation

7 5-408.

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

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

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

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

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

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

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

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

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

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

31 (i) May not be increased without the prior approval of the
32 Administration; and

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

4 (3) The Administration shall [monitor]:

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

10 (II) **REFER** for investigation all alleged violations of [Article
11 49B, § 14] **§ 20-606 OF THE STATE GOVERNMENT ARTICLE** to the State
12 Commission [of] **ON** Human Relations, the Equal Employment Opportunity
13 Commission, or any appropriate State or federal administrative body.

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

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

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.