

HOUSE BILL 1323

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By: **Delegate Jennings**

Introduced and read first time: February 18, 2010

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Air Patrol Leave Act of 2010**

3 FOR the purpose of establishing a certain leave policy for members of the Civil Air
4 Patrol; providing that an employer may not take certain actions against certain
5 employees; requiring employers to provide a certain number of days of a certain
6 leave for certain employees; requiring a certain employee to provide certain
7 notices to an employer; permitting an employer to require a certain certification;
8 allowing an employee to maintain certain leave; allowing an employer to
9 provide a certain paid leave; requiring an employer to restore an employee to a
10 certain position after use of a certain leave except in certain circumstances;
11 prohibiting use of a certain leave while using other certain grants of leave;
12 allowing negotiation between an employer and employee regarding payment of
13 certain benefits during a certain leave; disallowing the loss of certain benefits
14 that accrued at a certain time; maintaining the current obligations of an
15 employer under a certain agreement or benefit plan; providing that a certain
16 agreement or employee plan entered into after a certain date may not diminish
17 the use of a certain leave; providing that this Act does not diminish certain
18 rights of certain employees; authorizing an employee to take certain legal
19 actions to enforce this Act; defining certain terms; and generally relating to
20 leave taken by members of the Civil Air Patrol.

21 BY repealing and reenacting, without amendments,
22 Article – Labor and Employment
23 Section 3–703
24 Annotated Code of Maryland
25 (2008 Replacement Volume and 2009 Supplement)

26 BY adding to
27 Article – Labor and Employment
28 Section 3–1001 through 3–1007 to be under the new subtitle “Subtitle 10. Civil
29 Air Patrol Leave”

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2008 Replacement Volume and 2009 Supplement)

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

5 **Article – Labor and Employment**

6 3–703.

7 An employer may not discharge an employee for participation in an activity of a
8 civil air patrol, civil defense, volunteer fire department, or volunteer rescue squad if:

9 (1) the activity is in response to an emergency that the Governor
10 declares on the request of the governing body of a county or municipal corporation;
11 and

12 (2) the employee submits written proof that the participation of the
13 employee was required.

14 **SUBTITLE 10. CIVIL AIR PATROL LEAVE.**

15 **3–1001.**

16 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
17 INDICATED.

18 (B) “CIVIL AIR PATROL LEAVE” MEANS LEAVE REQUESTED BY AN
19 EMPLOYEE WHO:

20 (1) IS A VOLUNTEER MEMBER OF THE CIVILIAN AUXILIARY OF
21 THE UNITED STATES AIR FORCE KNOWN AS THE CIVIL AIR PATROL; AND

22 (2) HAS BEEN AUTHORIZED BY THE UNITED STATES AIR FORCE,
23 THE GOVERNOR, OR A POLITICAL SUBDIVISION OF THE STATE TO RESPOND TO
24 AN EMERGENCY MISSION.

25 (C) “EMPLOYEE” MEANS ANY INDIVIDUAL WHO PERFORMS SERVICES
26 FOR, OR UNDER THE CONTROL OF, A PROVIDER OF WAGES OR REMUNERATION.

27 (D) “EMPLOYEE BENEFITS” MEANS ALL BENEFITS OTHER THAN WAGES
28 GIVEN BY AN EMPLOYER.

29 (E) “EMPLOYER” MEANS ANY PERSON THAT EMPLOYS MORE THAN 15
30 EMPLOYEES.

1 **3-1002.**

2 (A) AN EMPLOYER MAY NOT DISCRIMINATE AGAINST OR DISCHARGE
3 FROM EMPLOYMENT AN EMPLOYEE WHO HAS BEEN EMPLOYED FOR A MINIMUM
4 OF 90 DAYS AND IS A MEMBER OF THE CIVIL AIR PATROL BECAUSE OF
5 MEMBERSHIP IN THE CIVIL AIR PATROL.

6 (B) AN EMPLOYER MAY NOT HINDER OR PREVENT AN EMPLOYEE WHO
7 HAS BEEN EMPLOYED FOR A MINIMUM OF 90 DAYS FROM PERFORMING SERVICE
8 AS PART OF THE MARYLAND WING OF THE CIVIL AIR PATROL DURING AN
9 EMERGENCY MISSION IF THE MEMBER IS ENTITLED TO LEAVE UNDER THIS
10 SUBTITLE.

11 **3-1003.**

12 (A) AN EMPLOYER SHALL PROVIDE NO LESS THAN 15 DAYS PER
13 CALENDAR YEAR OF UNPAID CIVIL AIR PATROL LEAVE TO AN EMPLOYEE
14 RESPONDING TO AN EMERGENCY MISSION OF THE MARYLAND WING OF THE
15 CIVIL AIR PATROL.

16 (B) (1) AN EMPLOYEE SHALL GIVE THE EMPLOYER AS MUCH NOTICE
17 AS POSSIBLE OF THE INTENDED DATES OF THE BEGINNING AND END OF LEAVE.

18 (2) AFTER ARRIVING AT AN EMERGENCY LOCATION, THE
19 EMPLOYEE SHALL NOTIFY THE EMPLOYER WITH AN ESTIMATE OF THE AMOUNT
20 OF TIME NEEDED TO COMPLETE THE EMERGENCY MISSION.

21 (3) THE EMPLOYEE SHALL REPORT TO THE EMPLOYER
22 NECESSARY CHANGES IN THE TIME REQUIRED TO COMPLETE THE MISSION.

23 (4) THE EMPLOYER MAY REQUIRE VERIFICATION OF THE
24 ELIGIBILITY OF THE EMPLOYEE FOR THE CIVIL AIR PATROL LEAVE REQUESTED
25 OR TAKEN.

26 (5) IF THE EMPLOYEE FAILS TO PROVIDE THE REQUIRED
27 CERTIFICATION, THE EMPLOYER MAY DENY THE CIVIL AIR PATROL LEAVE.

28 (6) AN EMPLOYEE TAKING LEAVE UNDER THIS SUBTITLE MAY
29 NOT BE REQUIRED TO EXHAUST ALL AVAILABLE LEAVE BEFORE USING CIVIL
30 AIR PATROL LEAVE.

31 (7) NOTHING IN THIS SUBTITLE PREVENTS AN EMPLOYER FROM
32 PROVIDING PAID LEAVE FOR LEAVE UNDER THIS SUBTITLE.

1 **3-1004.**

2 (A) THE EMPLOYER SHALL RESTORE THE EMPLOYEE TO THE POSITION
3 HELD WHEN THE LEAVE BEGAN OR TO A POSITION WITH EQUIVALENT
4 SENIORITY STATUS, BENEFITS, PAY, AND CONDITIONS OF EMPLOYMENT WHEN
5 THE EMPLOYEE RETURNS TO WORK.

6 (B) AN EMPLOYER MAY DECLINE TO RESTORE AN EMPLOYEE AS
7 REQUIRED IN THIS SUBTITLE BECAUSE OF CIRCUMSTANCES UNRELATED TO THE
8 PROVISIONS OF THIS SUBTITLE.

9 (C) AN EMPLOYER AND AN EMPLOYEE MAY NEGOTIATE FOR THE
10 EMPLOYER TO PAY FOR THE BENEFITS OF THE EMPLOYEE DURING THE LEAVE.

11 **3-1005.**

12 (A) THE USE OF CIVIL AIR PATROL LEAVE UNDER THIS SUBTITLE MAY
13 NOT RESULT IN THE LOSS OF AN EMPLOYEE BENEFIT ACCRUED BEFORE THE
14 FIRST DATE OF LEAVE.

15 (B) AN EMPLOYEE USING LEAVE UNDER TITLE 13 OF THE PUBLIC
16 SAFETY ARTICLE MAY NOT CONCURRENTLY USE LEAVE GRANTED UNDER THIS
17 SUBTITLE.

18 (C) THIS SUBTITLE DOES NOT AFFECT THE OBLIGATION OF AN
19 EMPLOYER TO COMPLY WITH A COLLECTIVE BARGAINING AGREEMENT OR AN
20 EMPLOYEE BENEFIT PLAN THAT PROVIDES GREATER LEAVE RIGHTS TO
21 EMPLOYEES THAN THE RIGHTS PROVIDED UNDER THIS SUBTITLE.

22 (D) THE GRANT OF LEAVE UNDER THIS SUBTITLE MAY NOT BE
23 DIMINISHED BY A COLLECTIVE BARGAINING AGREEMENT OR AN EMPLOYEE
24 BENEFIT PLAN ENTERED INTO ON OR AFTER JANUARY 1, 2010.

25 (E) THIS SUBTITLE DOES NOT AFFECT OR DIMINISH THE CONTRACT
26 RIGHTS OR SENIORITY STATUS OF AN EMPLOYEE NOT ENTITLED TO CIVIL AIR
27 PATROL LEAVE.

28 **3-1006.**

29 (A) AN EMPLOYER MAY NOT INTERFERE WITH THE USE OF CIVIL AIR
30 PATROL LEAVE ALLOWED UNDER THIS SUBTITLE.

1 **(B) AN EMPLOYER MAY NOT DISCHARGE, FINE, SUSPEND, EXPEL,**
2 **DISCIPLINE, OR IN ANY OTHER MANNER DISCRIMINATE AGAINST AN EMPLOYEE**
3 **WHO:**

4 **(1) COMPLIES WITH THE PROVISIONS OF THIS SUBTITLE; OR**

5 **(2) OPPOSES A PRACTICE NOT IN COMPLIANCE WITH THIS**
6 **SUBTITLE.**

7 **3-1007.**

8 **(A) AN EMPLOYEE MAY BRING A CIVIL ACTION IN THE APPROPRIATE**
9 **STATE COURT TO ENFORCE THIS SUBTITLE.**

10 **(B) THE COURT MAY ENJOIN AN ACT OR A PRACTICE THAT VIOLATES**
11 **THIS SUBTITLE AND MAY ORDER EQUITABLE RELIEF TO REDRESS THE**
12 **VIOLATION OR TO ENFORCE THIS SUBTITLE.**

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2010.