

HOUSE BILL 1323

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By: ~~Delegate Jennings~~ Delegates Jennings, Barkley, Braveboy, Burns, Davis, Feldman, Haddaway, Harrison, Hecht, Impallaria, Jameson, King, Kirk, Krysiak, Love, Manno, Mathias, McHale, Miller, Minnick, Rudolph, Stifler, Taylor, Vaughn, and Walkup

Introduced and read first time: February 18, 2010

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 22, 2010

CHAPTER _____

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,

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 Article – Labor and Employment
2 Section 3–703
3 Annotated Code of Maryland
4 (2008 Replacement Volume and 2009 Supplement)

5 BY adding to
6 Article – Labor and Employment
7 Section 3–1001 through 3–1007 to be under the new subtitle “Subtitle 10. Civil
8 Air Patrol Leave”
9 Annotated Code of Maryland
10 (2008 Replacement Volume and 2009 Supplement)

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

13 **Article – Labor and Employment**

14 3–703.

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

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

20 (2) the employee submits written proof that the participation of the
21 employee was required.

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

23 **3–1001.**

24 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
25 **INDICATED.**

26 **(B) “CIVIL AIR PATROL LEAVE” MEANS LEAVE REQUESTED BY AN**
27 **EMPLOYEE WHO:**

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

30 **(2) HAS BEEN AUTHORIZED BY THE UNITED STATES AIR FORCE,**
31 **THE GOVERNOR, OR A POLITICAL SUBDIVISION OF THE STATE TO RESPOND TO**
32 **AN EMERGENCY MISSION.**

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

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

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

7 **3-1002.**

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

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

17 **3-1003.**

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

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

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

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

29 (4) THE EMPLOYER MAY REQUIRE VERIFICATION OF THE
30 ELIGIBILITY OF THE EMPLOYEE FOR THE CIVIL AIR PATROL LEAVE REQUESTED
31 OR TAKEN.

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

1 **(6) AN EMPLOYEE TAKING LEAVE UNDER THIS SUBTITLE MAY**
2 **NOT BE REQUIRED TO EXHAUST ALL AVAILABLE LEAVE BEFORE USING CIVIL**
3 **AIR PATROL LEAVE.**

4 **(7) NOTHING IN THIS SUBTITLE PREVENTS AN EMPLOYER FROM**
5 **PROVIDING PAID LEAVE FOR LEAVE UNDER THIS SUBTITLE.**

6 **3-1004.**

7 **(A) THE EMPLOYER SHALL RESTORE THE EMPLOYEE TO THE POSITION**
8 **HELD WHEN THE LEAVE BEGAN OR TO A POSITION WITH EQUIVALENT**
9 **SENIORITY STATUS, BENEFITS, PAY, AND CONDITIONS OF EMPLOYMENT WHEN**
10 **THE EMPLOYEE RETURNS TO WORK.**

11 **(B) AN EMPLOYER MAY DECLINE TO RESTORE AN EMPLOYEE AS**
12 **REQUIRED IN THIS SUBTITLE BECAUSE OF CIRCUMSTANCES UNRELATED TO THE**
13 **PROVISIONS OF THIS SUBTITLE.**

14 **(C) AN EMPLOYER AND AN EMPLOYEE MAY NEGOTIATE FOR THE**
15 **EMPLOYER TO PAY FOR THE BENEFITS OF THE EMPLOYEE DURING THE LEAVE.**

16 **3-1005.**

17 **(A) THE USE OF CIVIL AIR PATROL LEAVE UNDER THIS SUBTITLE MAY**
18 **NOT RESULT IN THE LOSS OF AN EMPLOYEE BENEFIT ACCRUED BEFORE THE**
19 **FIRST DATE OF LEAVE.**

20 **(B) AN EMPLOYEE USING LEAVE UNDER TITLE 13 OF THE PUBLIC**
21 **SAFETY ARTICLE MAY NOT CONCURRENTLY USE LEAVE GRANTED UNDER THIS**
22 **SUBTITLE.**

23 **(C) THIS SUBTITLE DOES NOT AFFECT THE OBLIGATION OF AN**
24 **EMPLOYER TO COMPLY WITH A COLLECTIVE BARGAINING AGREEMENT OR AN**
25 **EMPLOYEE BENEFIT PLAN THAT PROVIDES GREATER LEAVE RIGHTS TO**
26 **EMPLOYEES THAN THE RIGHTS PROVIDED UNDER THIS SUBTITLE.**

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

30 **(E) THIS SUBTITLE DOES NOT AFFECT OR DIMINISH THE CONTRACT**
31 **RIGHTS OR SENIORITY STATUS OF AN EMPLOYEE NOT ENTITLED TO CIVIL AIR**
32 **PATROL LEAVE.**

1 **3-1006.**

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

4 (B) AN EMPLOYER MAY NOT DISCHARGE, FINE, SUSPEND, EXPEL,
5 DISCIPLINE, OR IN ANY OTHER MANNER DISCRIMINATE AGAINST AN EMPLOYEE
6 WHO:

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

8 (2) OPPOSES A PRACTICE NOT IN COMPLIANCE WITH THIS
9 SUBTITLE.

10 **3-1007.**

11 (A) AN EMPLOYEE MAY BRING A CIVIL ACTION IN THE APPROPRIATE
12 STATE COURT TO ENFORCE THIS SUBTITLE.

13 (B) THE COURT MAY ENJOIN AN ACT OR A PRACTICE THAT VIOLATES
14 THIS SUBTITLE AND MAY ORDER EQUITABLE RELIEF TO REDRESS THE
15 VIOLATION OR TO ENFORCE THIS SUBTITLE.

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.