

Chapter 732

(House Bill 1323)

AN ACT concerning

Civil Air Patrol Leave Act of 2010

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

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

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

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

Article – Labor and Employment

3-703.

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

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

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

SUBTITLE 10. CIVIL AIR PATROL LEAVE.

3-1001.

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

(B) "CIVIL AIR PATROL LEAVE" MEANS LEAVE REQUESTED BY AN EMPLOYEE WHO:

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

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

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

(D) "EMPLOYEE BENEFITS" MEANS ALL BENEFITS OTHER THAN WAGES GIVEN BY AN EMPLOYER.

(E) "EMPLOYER" MEANS ANY PERSON THAT EMPLOYS MORE THAN 15 EMPLOYEES.

3-1002.

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

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

3-1003.

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

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

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

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

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

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

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

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

3-1004.

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

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

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

3-1005.

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

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

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

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

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

3-1006.

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

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

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

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

3-1007.

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

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

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

Approved by the Governor, May 20, 2010.