

SENATE BILL 551

K3

11r1181
CF 11r1896

By: **Senators Kelley, Benson, Jones–Rodwell, Madaleno, Manno, Montgomery, Pugh, and Raskin**

Introduced and read first time: February 4, 2011

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Wage and Hour Law – Prohibited Acts of Employers – Adverse**
3 **Action**

4 FOR the purpose of prohibiting an employer from taking adverse action against an
5 employee who makes a complaint, brings an action, or testifies in an action
6 under the Maryland Wage and Hour Law; specifying that the adverse action
7 prohibited includes certain retaliatory actions; defining a certain term; and
8 generally relating to prohibited acts of employers under the Maryland Wage
9 and Hour Law.

10 BY repealing and reenacting, without amendments,
11 Article – Labor and Employment
12 Section 3–401
13 Annotated Code of Maryland
14 (2008 Replacement Volume and 2010 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Labor and Employment
17 Section 3–428
18 Annotated Code of Maryland
19 (2008 Replacement Volume and 2010 Supplement)

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

22 **Article – Labor and Employment**

23 3–401.

24 (a) In this subtitle the following words have the meanings indicated.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) "Employer" includes a person who acts directly or indirectly in the
2 interest of another employer with an employee.

3 (c) "Federal Act" means the federal Fair Labor Standards Act of 1938.

4 (d) "Wage" means all compensation that is due to an employee for
5 employment.

6 3-428.

7 (a) **IN THIS SECTION, "COMPLAINT" INCLUDES A WRITTEN OR ORAL**
8 **COMPLAINT, CLAIM, OR ASSERTION OF RIGHT BY AN EMPLOYEE, REGARDING**
9 **THE PAYMENT OF WAGES UNDER THIS SUBTITLE, THAT IS MADE TO:**

10 **(1) THE EMPLOYER OR A SUPERVISOR, MANAGER, OR FOREMAN**
11 **EMPLOYED BY THE EMPLOYER WHETHER IT IS MADE THROUGH THE**
12 **EMPLOYER'S INTERNAL GRIEVANCE PROCESS OR OTHERWISE;**

13 **(2) THE EMPLOYEE'S UNION REPRESENTATIVE;**

14 **(3) A REPRESENTATIVE OF A LABOR UNION OR LABOR**
15 **ORGANIZATION WHO IS CONSULTED BY THE EMPLOYEE WITH RESPECT TO A**
16 **COMPLAINT IF THE LABOR UNION OR LABOR ORGANIZATION IS IN THE PROCESS**
17 **OF ORGANIZING AT THE EMPLOYEE'S WORKSITE;**

18 **(4) AN ATTORNEY WHO IS CONSULTED OR RETAINED BY THE**
19 **EMPLOYEE WITH RESPECT TO A COMPLAINT; OR**

20 **(5) THE COMMISSIONER OR AN AUTHORIZED REPRESENTATIVE**
21 **OF THE COMMISSIONER.**

22 **(B) (1) An employer may not:**

23 **[(1)] (I) pay or agree to pay less than the wage required under this**
24 **subtitle;**

25 **[(2)] (II) hinder or delay the Commissioner or an authorized**
26 **representative of the Commissioner in the enforcement of this subtitle;**

27 **[(3)] (III) [discharge] TAKE ADVERSE ACTION AGAINST an employee**
28 **because the employee:**

1 [(i)] 1. makes [to the employer, the Commissioner, or an
2 authorized representative of the Commissioner] a complaint that the employee has not
3 been paid in accordance with this subtitle;

4 [(ii)] 2. brings an action under this subtitle or a proceeding
5 that relates to the subject of this subtitle; or

6 [(iii)] 3. has testified in an action under this subtitle or a
7 proceeding related to the subject of this subtitle; or

8 [(4)] (IV) violate any other provision of this subtitle.

9 (2) **ADVERSE ACTION PROHIBITED UNDER PARAGRAPH (1) OF**
10 **THIS SUBSECTION INCLUDES:**

11 (I) **DISCHARGE;**

12 (II) **DEMOTION;**

13 (III) **THREATENING THE EMPLOYEE WITH DISCHARGE OR**
14 **DEMOTION; AND**

15 (IV) **ANY OTHER RETALIATORY ACTION THAT RESULTS IN A**
16 **CHANGE TO THE TERMS OR CONDITIONS OF EMPLOYMENT THAT WOULD**
17 **DISSUADE A REASONABLE EMPLOYEE FROM MAKING A COMPLAINT, BRINGING**
18 **AN ACTION, OR TESTIFYING IN AN ACTION UNDER THIS SUBTITLE.**

19 [(b)] (C) An employee may not:

20 (1) make a groundless or malicious complaint to the Commissioner or
21 an authorized representative of the Commissioner;

22 (2) in bad faith, bring an action under this subtitle or a proceeding
23 related to the subject of this subtitle; or

24 (3) in bad faith, testify in an action under this subtitle or a proceeding
25 related to the subject of this subtitle.

26 [(c)] (D) A person who violates any provision of this section is guilty of a
27 misdemeanor and on conviction is subject to a fine not exceeding \$1,000.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2011.