

HOUSE BILL 595

K1

3lr2445
CF 3lr2160

By: **Delegate Davis**

Introduced and read first time: January 31, 2013

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation – Retaliation by Employer – Prohibition**

3 FOR the purpose of expanding a provision of law prohibiting an employer from
4 discharging a covered employee who files a claim for compensation under the
5 Workers' Compensation law to include prohibiting an employer from retaliating
6 in any way against a covered employee who files such a claim; applying a
7 certain criminal penalty to a violation of this Act; authorizing a certain covered
8 employee to bring a civil action against the employer for a certain violation;
9 authorizing a court to grant certain relief for a certain violation under certain
10 circumstances; providing for trial by jury under certain circumstances;
11 providing that it is not a defense in a civil action under this Act that an
12 employer was found not guilty in a certain criminal proceeding; providing for
13 the construction of this Act; and generally relating to workers' compensation
14 and retaliation against covered employees.

15 BY repealing and reenacting, with amendments,
16 Article – Labor and Employment
17 Section 9–1105
18 Annotated Code of Maryland
19 (2008 Replacement Volume and 2012 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 9–1105.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) An employer may not discharge a covered employee from employment
2 [solely] OR RETALIATE IN ANY WAY AGAINST A COVERED EMPLOYEE because the
3 covered employee files a claim for compensation under this title.

4 (b) A person who violates this section is guilty of a misdemeanor and on
5 conviction is subject to a fine not exceeding \$500 or imprisonment not exceeding 1 year
6 or both.

7 (c) (1) A COVERED EMPLOYEE AGGRIEVED BY A VIOLATION OF THIS
8 SECTION MAY BRING A CIVIL ACTION AGAINST THE EMPLOYER.

9 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF THE
10 TRIER OF FACT IN A CIVIL ACTION UNDER THIS SUBSECTION FINDS IN FAVOR OF
11 THE COVERED EMPLOYEE, THE COURT MAY:

12 (I) ENJOIN THE EMPLOYER FROM ENGAGING IN
13 RETALIATION;

14 (II) ORDER APPROPRIATE AFFIRMATIVE RELIEF,
15 INCLUDING THE REINSTATEMENT OR HIRING OF THE COVERED EMPLOYEE,
16 WITH OR WITHOUT BACK PAY;

17 (III) AWARD COMPENSATORY DAMAGES;

18 (IV) AWARD BACK PAY AND BENEFITS; OR

19 (V) ORDER ANY OTHER EQUITABLE RELIEF THAT THE
20 COURT CONSIDERS APPROPRIATE.

21 (3) IF ANY PARTY TO AN ACTION UNDER THIS SUBSECTION
22 ELECTS TO HAVE THE CASE TRIED BY A JURY IN ACCORDANCE WITH THE
23 MARYLAND RULES, THE CASE SHALL BE TRIED BY A JURY.

24 (4) IT IS NOT A DEFENSE TO A CIVIL ACTION UNDER THIS
25 SUBSECTION THAT AN EMPLOYER WAS FOUND NOT GUILTY IN A CRIMINAL
26 PROCEEDING OF A VIOLATION OF THIS SECTION.

27 (D) THIS SECTION DOES NOT LIMIT THE RIGHT OF ANY PERSON TO
28 MAINTAIN A CIVIL ACTION FOR DAMAGES OR OTHER REMEDIES OTHERWISE
29 AVAILABLE UNDER ANY OTHER PROVISION OF LAW.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2013.