

SENATE BILL 757

K3

3lr3080
CF 3lr2642

By: **Senator Ramirez**

Introduced and read first time: February 1, 2013

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Occupational Safety and Health Act – Discrimination Against**
3 **Employee – Complaints**

4 FOR the purpose of authorizing an employee who believes that an employer or other
5 person has violated a certain provision of the Maryland Occupational Safety and
6 Health Act to submit orally a complaint to the Commissioner of Labor and
7 Industry; clarifying language; and generally relating to the submission of
8 complaints to the Commissioner of Labor and Industry under the Maryland
9 Occupational Safety and Health Act.

10 BY repealing and reenacting, with amendments,
11 Article – Labor and Employment
12 Section 5–604
13 Annotated Code of Maryland
14 (2008 Replacement Volume and 2012 Supplement)

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

17 **Article – Labor and Employment**

18 5–604.

19 (a) (1) An employer or other person may not discharge or otherwise
20 discriminate against an employee on the basis of information gained through
21 participation of the employee in group medical coverage.

22 (2) This title does not prevent an employer from using medical
23 information that:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (i) has a direct, material, and timely relationship to the
2 capacity or fitness of an employee to perform the job of the employee properly; or

3 (ii) differs substantially from medical information that the
4 employee falsely provides in an application for employment.

5 (b) An employer or other person may not discharge or otherwise discriminate
6 against an employee because the employee:

7 (1) files a complaint under or related to this title;

8 (2) brings an action under this title or a proceeding under or related to
9 this title or causes the action or proceeding to be brought;

10 (3) has testified or will testify in an action under this title or a
11 proceeding under or related to this title; or

12 (4) exercises, for the employee or another, a right under this title.

13 (c) (1) **(I)** An employee who believes that an employer or other person
14 has discharged or otherwise discriminated against the employee in violation of
15 subsection (a) or (b) of this section may submit to the Commissioner, **ORALLY OR IN**
16 **WRITING**, a [written] complaint that alleges the discrimination [and that includes the
17 signature of the employee].

18 **(II) IF AN EMPLOYEE SUBMITS A WRITTEN COMPLAINT**
19 **UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COMPLAINT SHALL**
20 **INCLUDE THE SIGNATURE OF THE EMPLOYEE.**

21 (2) An employee shall file a complaint under this subsection within 30
22 days after the alleged discrimination occurs.

23 (d) (1) On receipt of a complaint under subsection (c) of this section, the
24 Commissioner may investigate.

25 (2) If, after investigation, the Commissioner determines that an
26 employer or other person has violated subsection (a) or (b) of this section, the
27 Commissioner shall file a complaint to enjoin the violation, to reinstate the employee
28 to the former position with back pay, or for other appropriate relief in the circuit court
29 for:

30 (i) the county in which the alleged violation occurred;

31 (ii) the county in which the employer has its principal office; or

32 (iii) Baltimore City.

1 (3) Within 90 days after the Commissioner receives a complaint, the
2 Commissioner shall notify the employee of the determination under this subsection.

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