

Chapter 538

(Senate Bill 757)

AN ACT concerning

Maryland Occupational Safety and Health Act – Discrimination Against Employee – Complaints

FOR the purpose of authorizing ~~an employee who believes that an employer or other person has violated a certain provision of the Maryland Occupational Safety and Health Act to submit orally a complaint to the Commissioner of Labor and Industry; clarifying language;~~ the Commissioner of Labor and Industry to accept certain oral complaints made by a certain employee if the employee submits a written complaint, signed by the employee, within a certain time period after making the oral complaint; and generally relating to the submission of complaints to the Commissioner of Labor and Industry under the Maryland Occupational Safety and Health Act.

BY repealing and reenacting, with amendments,

Article – Labor and Employment

Section 5–604

Annotated Code of Maryland

(2008 Replacement Volume and 2012 Supplement)

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

Article – Labor and Employment

5–604.

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

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

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

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

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

- (1) files a complaint under or related to this title;
- (2) brings an action under this title or a proceeding under or related to this title or causes the action or proceeding to be brought;
- (3) has testified or will testify in an action under this title or a proceeding under or related to this title; or
- (4) exercises, for the employee or another, a right under this title.

(c) (1) ~~(I) An~~ SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN employee who believes that an employer or other person has discharged or otherwise discriminated against the employee in violation of subsection (a) or (b) of this section may submit to the Commissioner, ~~ORALLY OR IN WRITING,~~ a ~~written~~ complaint that alleges the discrimination ~~and~~ that includes the signature of the employee~~.~~

~~(II) IF AN EMPLOYEE SUBMITS A WRITTEN COMPLAINT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COMPLAINT SHALL INCLUDE THE COMMISSIONER SHALL ACCEPT AS TIMELY AN ORAL COMPLAINT MADE BY THE EMPLOYEE UNDER THE CIRCUMSTANCES DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, PROVIDED THE EMPLOYEE SUBMITS A WRITTEN COMPLAINT WITHIN 7 BUSINESS DAYS OF THE ORAL COMPLAINT AND THAT INCLUDES THE SIGNATURE OF THE EMPLOYEE.~~

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

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

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

- (i) the county in which the alleged violation occurred;
- (ii) the county in which the employer has its principal office; or
- (iii) Baltimore City.

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

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

Approved by the Governor, May 16, 2013.