

HOUSE BILL 527

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By: **Delegates B. Robinson, Bobo, Glenn, Harper, Howard, Summers, and A. Washington**

Introduced and read first time: January 29, 2014

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Earned Sick Leave**

3 FOR the purpose of requiring certain employers to provide employees with certain
4 earned sick leave; providing for the manner in which earned sick leave is
5 accrued by the employee and treated by the employer; requiring an employer to
6 allow an employee to use earned sick leave for certain purposes; requiring an
7 employee, under certain circumstances, to request leave, notify the employer of
8 certain information, and comply with certain procedures; authorizing an
9 employer to establish, subject to certain limitations, certain procedures for an
10 employee to follow when requesting and taking earned sick leave; authorizing
11 an employer, under certain circumstances, to require an employee to provide
12 certain documentation subject to certain limitations; requiring an employer to
13 notify the employees that the employees are entitled to certain earned sick
14 leave; specifying the information that must be included in the notice; requiring
15 the Commissioner of Labor and Industry to create and make available a certain
16 poster and notice; providing for the manner in which an employer may comply
17 with a certain notice requirement; establishing certain civil penalties for the
18 violation of certain provisions of this Act; requiring an employer to keep certain
19 records for a certain time period; authorizing the Commissioner under certain
20 circumstances to inspect certain records; authorizing the Commissioner to take
21 certain acts when the Commissioner determines certain provisions of this Act
22 have been violated; authorizing an employee to bring a civil action in a certain
23 court against an employer for a violation of certain provisions of this Act;
24 requiring that a certain action be brought within a certain time period;
25 authorizing a court to award certain damages and fees under certain
26 circumstances; establishing certain prohibited acts; providing for certain
27 criminal penalties; providing that certain protections apply to certain
28 employees; authorizing the Commissioner to adopt regulations to carry out
29 certain provisions of this Act; authorizing the Commissioner to conduct an
30 investigation, under certain circumstances, to determine whether certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 provisions of this Act have been violated; requiring the Commissioner, except
 2 under certain circumstances, to keep certain information confidential; providing
 3 for the construction of certain provisions of this Act; defining certain terms; and
 4 generally relating to earned sick leave.

5 BY repealing and reenacting, with amendments,
 6 Article – Labor and Employment
 7 Section 2–106(b)
 8 Annotated Code of Maryland
 9 (2008 Replacement Volume and 2013 Supplement)

10 BY adding to
 11 Article – Labor and Employment
 12 Section 3–103(i); and 3–1201 through 3–1210 to be under the new subtitle
 13 “Subtitle 12. Earned Sick Leave”
 14 Annotated Code of Maryland
 15 (2008 Replacement Volume and 2013 Supplement)

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

18 **Article – Labor and Employment**

19 2–106.

20 (b) Except as provided in subsection (c) of this section, and in addition to
 21 authority to adopt regulations that is set forth elsewhere, the Commissioner may
 22 adopt regulations that are necessary to carry out:

23 (1) Title 3, Subtitle 3 of this article;

24 (2) Title 3, Subtitle 5 of this article;

25 **(3) TITLE 3, SUBTITLE 12 OF THIS ARTICLE;**

26 **[(3)] (4)** Title 4, Subtitle 2, Parts I through III of this article;

27 **[(4)] (5)** Title 5 of this article;

28 **[(5)] (6)** Title 6 of this article; and

29 **[(6)] (7)** Title 7 of this article.

30 3–103.

1 **(1) A BIOLOGICAL CHILD, AN ADOPTED CHILD, A FOSTER CHILD,**
2 **OR A STEPCHILD OF THE EMPLOYEE;**

3 **(2) A CHILD FOR WHOM THE EMPLOYEE HAS LEGAL OR PHYSICAL**
4 **CUSTODY OR GUARDIANSHIP;**

5 **(3) A CHILD FOR WHOM THE EMPLOYEE IS THE PRIMARY**
6 **CAREGIVER;**

7 **(4) A BIOLOGICAL PARENT, AN ADOPTIVE PARENT, A FOSTER**
8 **PARENT, OR A STEPPARENT OF THE EMPLOYEE OR THE EMPLOYEE'S SPOUSE;**

9 **(5) THE LEGAL GUARDIAN OF THE EMPLOYEE;**

10 **(6) AN INDIVIDUAL WHO SERVED AS THE PRIMARY CAREGIVER OF**
11 **THE EMPLOYEE WHEN THE EMPLOYEE WAS A MINOR;**

12 **(7) THE SPOUSE OF THE EMPLOYEE;**

13 **(8) A GRANDPARENT OF THE EMPLOYEE;**

14 **(9) THE SPOUSE OF A GRANDPARENT OF THE EMPLOYEE;**

15 **(10) A GRANDCHILD OF THE EMPLOYEE;**

16 **(11) A BIOLOGICAL SIBLING, AN ADOPTED SIBLING, OR A FOSTER**
17 **SIBLING OF THE EMPLOYEE; OR**

18 **(12) THE SPOUSE OF A BIOLOGICAL SIBLING, A FOSTER SIBLING,**
19 **OR AN ADOPTED SIBLING OF THE EMPLOYEE.**

20 **(F) "HEALTH CARE PROVIDER" MEANS AN INDIVIDUAL LICENSED**
21 **UNDER STATE LAW TO PROVIDE MEDICAL SERVICES.**

22 **3-1202.**

23 **THIS SUBTITLE MAY NOT BE CONSTRUED TO:**

24 **(1) REQUIRE AN EMPLOYER TO COMPENSATE AN EMPLOYEE FOR**
25 **UNUSED EARNED SICK LEAVE WHEN THE EMPLOYEE LEAVES THE EMPLOYER'S**
26 **EMPLOYMENT;**

1 **(2) PROHIBIT AN EMPLOYER FROM ESTABLISHING A POLICY**
2 **UNDER WHICH EMPLOYEES MAY VOLUNTARILY EXCHANGE ASSIGNED WORK**
3 **HOURS;**

4 **(3) PROHIBIT AN EMPLOYER FROM ADOPTING OR RETAINING AN**
5 **EARNED SICK LEAVE POLICY THAT PROVIDES BENEFITS THAT ARE MORE**
6 **GENEROUS THAN THE BENEFITS REQUIRED UNDER THIS SUBTITLE;**

7 **(4) AFFECT A PROVISION OF A CONTRACT, A COLLECTIVE**
8 **BARGAINING AGREEMENT, AN EMPLOYEE BENEFIT PLAN, OR ANY OTHER**
9 **AGREEMENT THAT REQUIRES THE EMPLOYER TO PROVIDE EARNED SICK LEAVE**
10 **BENEFITS THAT ARE MORE GENEROUS THAN THE BENEFITS REQUIRED UNDER**
11 **THIS SUBTITLE;**

12 **(5) PREEMPT, LIMIT, OR OTHERWISE AFFECT ANY OTHER LAW**
13 **THAT PROVIDES FOR SICK LEAVE BENEFITS THAT ARE MORE GENEROUS THAN**
14 **REQUIRED UNDER THIS SUBTITLE; OR**

15 **(6) PREEMPT, LIMIT, OR OTHERWISE AFFECT ANY WORKERS'**
16 **COMPENSATION BENEFITS THAT ARE AVAILABLE UNDER TITLE 9 OF THIS**
17 **ARTICLE.**

18 **3-1203.**

19 **(A) AN EMPLOYER SHALL PROVIDE AN EMPLOYEE WITH EARNED SICK**
20 **LEAVE THAT IS PAID AT THE SAME RATE AND WITH THE SAME BENEFITS AS THE**
21 **EMPLOYEE NORMALLY EARNS.**

22 **(B) THE EARNED SICK LEAVE PROVIDED UNDER SUBSECTION (A) OF**
23 **THIS SECTION SHALL ACCRUE AT A RATE OF AT LEAST 1 HOUR FOR EVERY 30**
24 **HOURS AN EMPLOYEE WORKS.**

25 **(C) AN EMPLOYER MAY NOT BE REQUIRED TO ALLOW AN EMPLOYEE TO:**

26 **(1) EARN MORE THAN 56 HOURS OF EARNED SICK LEAVE IN A**
27 **CALENDAR YEAR; OR**

28 **(2) USE MORE THAN 80 HOURS OF EARNED SICK LEAVE IN A**
29 **CALENDAR YEAR.**

30 **(D) AT THE BEGINNING OF A CALENDAR YEAR, AN EMPLOYER MAY**
31 **AWARD TO AN EMPLOYEE THE FULL AMOUNT OF EARNED SICK LEAVE THAT AN**
32 **EMPLOYEE WOULD EARN OVER THE COURSE OF THE CALENDAR YEAR RATHER**

1 THAN AWARDING THE LEAVE AS THE LEAVE ACCRUES DURING THE CALENDAR
2 YEAR.

3 (E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
4 SUBSECTION, FOR THE PURPOSES OF CALCULATING THE ACCRUAL OF EARNED
5 SICK LEAVE, AN EMPLOYEE WHO IS EXEMPT FROM OVERTIME WAGE
6 REQUIREMENTS UNDER THE FEDERAL FAIR LABOR STANDARDS ACT IS
7 ASSUMED TO WORK 40 HOURS EACH WORKWEEK.

8 (2) IF THE EMPLOYEE'S NORMAL WORKWEEK IS LESS THAN 40
9 HOURS, THE NUMBER OF HOURS IN THE NORMAL WORKWEEK SHALL BE USED.

10 (F) (1) EARNED SICK LEAVE SHALL BEGIN TO ACCRUE:

11 (I) OCTOBER 1, 2014; OR

12 (II) IF THE EMPLOYEE IS HIRED AFTER OCTOBER 1, 2014,
13 THE DATE ON WHICH THE EMPLOYEE BEGINS EMPLOYMENT WITH THE
14 EMPLOYER.

15 (2) AN EMPLOYEE MAY NOT ACCRUE EARNED SICK LEAVE BASED
16 ON HOURS WORKED BEFORE OCTOBER 1, 2014.

17 (G) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF AN
18 EMPLOYEE HAS UNUSED EARNED SICK LEAVE AT THE END OF A CALENDAR
19 YEAR, THE EMPLOYEE MAY CARRY THE BALANCE OF THE EARNED SICK LEAVE
20 OVER TO THE FOLLOWING CALENDAR YEAR.

21 (2) AN EMPLOYER MAY NOT BE REQUIRED TO ALLOW AN
22 EMPLOYEE TO CARRY OVER MORE THAN 56 HOURS OF EARNED SICK LEAVE
23 UNDER PARAGRAPH (1) OF THIS SUBSECTION.

24 (H) IF AN EMPLOYEE BEGINS WORKING IN A SEPARATE DIVISION OR
25 LOCATION, BUT REMAINS EMPLOYED BY THE EMPLOYER, THE EMPLOYEE IS
26 ENTITLED TO THE EARNED SICK LEAVE THAT ACCRUED BEFORE THE EMPLOYEE
27 MOVED TO THE SEPARATE DIVISION OR LOCATION.

28 (I) (1) IF AN EMPLOYEE IS REHIRED BY THE EMPLOYER WITHIN 12
29 MONTHS AFTER LEAVING THE EMPLOYMENT OF THE EMPLOYER, THE
30 EMPLOYER SHALL REINSTATE ANY UNUSED EARNED SICK LEAVE THAT THE
31 EMPLOYEE HAD WHEN THE EMPLOYEE LEFT THE EMPLOYMENT OF THE
32 EMPLOYER.

1 **(2) IF AN EMPLOYEE IS REHIRED BY THE EMPLOYER MORE THAN**
2 **12 MONTHS AFTER LEAVING THE EMPLOYMENT OF THE EMPLOYER, THE**
3 **EMPLOYER MAY NOT BE REQUIRED TO REINSTATE ANY UNUSED EARNED SICK**
4 **LEAVE THAT THE EMPLOYEE HAD WHEN THE EMPLOYEE LEFT THE**
5 **EMPLOYMENT OF THE EMPLOYER.**

6 **(J) AN EMPLOYER MAY ALLOW AN EMPLOYEE TO USE EARNED SICK**
7 **LEAVE BEFORE THE AMOUNT NEEDED BY THE EMPLOYEE ACCRUES.**

8 **3-1204.**

9 **(A) AN EMPLOYER SHALL ALLOW AN EMPLOYEE TO USE EARNED SICK**
10 **LEAVE:**

11 **(1) TO CARE FOR OR TREAT THE EMPLOYEE'S MENTAL OR**
12 **PHYSICAL ILLNESS, INJURY, OR CONDITION;**

13 **(2) TO OBTAIN PREVENTIVE MEDICAL CARE FOR THE EMPLOYEE**
14 **OR EMPLOYEE'S FAMILY MEMBER;**

15 **(3) TO CARE FOR A FAMILY MEMBER WITH A MENTAL OR**
16 **PHYSICAL ILLNESS, INJURY, OR CONDITION;**

17 **(4) IF THE EMPLOYER'S PLACE OF BUSINESS HAS CLOSED BY**
18 **ORDER OF A PUBLIC OFFICIAL DUE TO A PUBLIC HEALTH EMERGENCY;**

19 **(5) IF THE SCHOOL OF OR CHILD CARE PROVIDER FOR THE**
20 **EMPLOYEE'S FAMILY MEMBER HAS CLOSED BY ORDER OF A PUBLIC OFFICIAL**
21 **DUE TO A PUBLIC HEALTH EMERGENCY; OR**

22 **(6) TO CARE FOR A FAMILY MEMBER IF A HEALTH OFFICIAL OR**
23 **HEALTH CARE PROVIDER HAS DETERMINED THAT THE FAMILY MEMBER'S**
24 **PRESENCE IN THE COMMUNITY WOULD JEOPARDIZE THE HEALTH OF OTHERS**
25 **BECAUSE OF THE FAMILY MEMBER'S EXPOSURE TO A COMMUNICABLE DISEASE.**

26 **(B) IN ORDER TO USE EARNED SICK LEAVE, AN EMPLOYEE SHALL:**

27 **(1) REQUEST THE LEAVE FROM THE EMPLOYER AS SOON AS**
28 **PRACTICABLE AFTER THE EMPLOYEE DETERMINES THAT THE EMPLOYEE NEEDS**
29 **TO TAKE THE LEAVE;**

30 **(2) NOTIFY THE EMPLOYER OF THE ANTICIPATED DURATION OF**
31 **THE LEAVE; AND**

1 **(3) COMPLY WITH ANY REASONABLE PROCEDURES ESTABLISHED**
2 **BY THE EMPLOYER UNDER SUBSECTION (C) OF THIS SECTION.**

3 **(C) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION,**
4 **AN EMPLOYER MAY ESTABLISH REASONABLE PROCEDURES FOR AN EMPLOYEE**
5 **TO FOLLOW WHEN REQUESTING AND TAKING EARNED SICK LEAVE.**

6 **(2) AN EMPLOYER MAY NOT REQUIRE THAT AN EMPLOYEE WHO IS**
7 **REQUESTING EARNED SICK LEAVE SEARCH FOR OR FIND AN INDIVIDUAL TO**
8 **WORK IN THE EMPLOYEE'S STEAD DURING THE TIME THE EMPLOYEE IS TAKING**
9 **THE LEAVE.**

10 **(3) AN EMPLOYER MAY NOT REQUIRE AN EMPLOYEE TO:**

11 **(I) DISCLOSE DETAILS OF THE MENTAL OR PHYSICAL**
12 **ILLNESS, INJURY, OR CONDITION OF THE EMPLOYEE OR THE EMPLOYEE'S**
13 **FAMILY MEMBER; OR**

14 **(II) PROVIDE AS CERTIFICATION ANY INFORMATION THAT**
15 **WOULD VIOLATE THE FEDERAL SOCIAL SECURITY ACT OF 1939 OR THE**
16 **FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT.**

17 **(D) (1) INSTEAD OF TAKING EARNED SICK LEAVE UNDER THIS**
18 **SECTION, BY MUTUAL CONSENT OF THE EMPLOYER AND EMPLOYEE, AN**
19 **EMPLOYEE MAY WORK ADDITIONAL HOURS OR TRADE SHIFTS WITH ANOTHER**
20 **EMPLOYEE DURING A PAY PERIOD TO MAKE UP THE AMOUNT OF WORK HOURS**
21 **THAT THE EMPLOYEE TOOK OFF FOR WHICH THE EMPLOYEE COULD HAVE**
22 **TAKEN EARNED SICK LEAVE.**

23 **(2) AN EMPLOYEE IS NOT REQUIRED TO OFFER NOR IS AN**
24 **EMPLOYEE REQUIRED TO ACCEPT AN OFFER OF ADDITIONAL HOURS OR A**
25 **TRADE IN SHIFTS.**

26 **(E) (1) AN EMPLOYEE MAY TAKE EARNED SICK LEAVE IN THE**
27 **SMALLEST INCREMENT THAT THE EMPLOYER'S PAYROLL SYSTEM USES TO**
28 **ACCOUNT FOR ABSENCES OR USE OF THE EMPLOYEE'S WORK TIME.**

29 **(2) AN EMPLOYEE MAY NOT BE REQUIRED TO TAKE EARNED SICK**
30 **LEAVE IN AN INCREMENT OF MORE THAN 1 HOUR.**

31 **(F) WHEN WAGES ARE PAID TO AN EMPLOYEE, THE EMPLOYER SHALL**
32 **PROVIDE BY ANY REASONABLE METHOD IN WRITING A STATEMENT REGARDING**

1 THE AMOUNT OF EARNED SICK LEAVE THAT IS AVAILABLE FOR USE BY THE
2 EMPLOYEE.

3 (G) (1) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, AN
4 EMPLOYER MAY REQUIRE AN EMPLOYEE WHO USES MORE THAN 3 CONSECUTIVE
5 DAYS OF EARNED SICK LEAVE TO PROVIDE REASONABLE DOCUMENTATION TO
6 VERIFY THAT THE LEAVE WAS USED APPROPRIATELY UNDER SUBSECTION (A)
7 OF THIS SECTION.

8 (2) REASONABLE DOCUMENTATION THAT MAY BE REQUIRED
9 UNDER PARAGRAPH (1) OF THIS SUBSECTION INCLUDES:

10 (I) FOR LEAVE USED UNDER SUBSECTION (A)(5) OF THIS
11 SECTION, THE NOTICE OF THE CLOSURE ORDER BY A PUBLIC OFFICIAL IN THE
12 FORM IN WHICH THE EMPLOYEE RECEIVED THE NOTICE; AND

13 (II) FOR LEAVE USED UNDER SUBSECTION (A)(1), (3), OR (6)
14 OF THIS SECTION, DOCUMENTATION FROM THE HEALTH OFFICER OR HEALTH
15 CARE PROVIDER THAT THE USE OF EARNED SICK LEAVE IS NECESSARY.

16 (3) AN EMPLOYER MAY NOT REQUIRE THAT THE
17 DOCUMENTATION USED FOR VERIFYING THE USE OF THE EARNED SICK LEAVE
18 UNDER SUBSECTION (A)(1), (3), OR (6) OF THIS SECTION EXPLAINS THE NATURE
19 OF THE MENTAL OR PHYSICAL ILLNESS, INJURY, OR CONDITION.

20 (4) (I) IF DOCUMENTATION REQUIRED UNDER PARAGRAPH (1)
21 OF THIS SECTION RELATES TO MENTAL OR PHYSICAL HEALTH OF AN EMPLOYEE,
22 THE EMPLOYER SHALL MAINTAIN THE DOCUMENTATION IN A CONFIDENTIAL
23 FILE THAT IS SEPARATE FROM THE EMPLOYEE'S PERSONNEL FILE.

24 (II) AN EMPLOYER MAY NOT DISCLOSE THE
25 DOCUMENTATION MAINTAINED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH
26 UNLESS THE DISCLOSURE IS MADE TO THE EMPLOYEE OR WITH THE
27 PERMISSION OF THE EMPLOYEE.

28 **3-1205.**

29 (A) AN EMPLOYER SHALL NOTIFY THE EMPLOYEES THAT THE
30 EMPLOYEES ARE ENTITLED TO EARNED SICK LEAVE UNDER THIS SUBTITLE.

31 (B) THE NOTICE PROVIDED UNDER SUBSECTION (A) OF THIS SECTION
32 SHALL INCLUDE:

1 **(1) A STATEMENT OF HOW EARNED SICK LEAVE IS ACCRUED**
2 **UNDER § 3-1203 OF THIS SUBTITLE;**

3 **(2) THE PURPOSES FOR WHICH THE EMPLOYER IS REQUIRED TO**
4 **ALLOW AN EMPLOYEE TO USE EARNED SICK LEAVE UNDER § 3-1204 OF THIS**
5 **SUBTITLE;**

6 **(3) A STATEMENT REGARDING THE PROHIBITION IN § 3-1208 OF**
7 **THIS SUBTITLE ON THE EMPLOYER TAKING ADVERSE ACTION AGAINST AN**
8 **EMPLOYEE WHO EXERCISES A RIGHT UNDER THIS SUBTITLE; AND**

9 **(4) INFORMATION REGARDING THE RIGHT OF AN EMPLOYEE TO**
10 **REPORT AN ALLEGED VIOLATION OF THIS SUBTITLE BY THE EMPLOYER TO THE**
11 **COMMISSIONER OR BRING A CIVIL ACTION UNDER § 3-1207(B) OF THIS**
12 **SUBTITLE.**

13 **(C) (1) THE COMMISSIONER SHALL CREATE AND MAKE AVAILABLE A**
14 **POSTER AND A MODEL NOTICE THAT MAY BE USED BY AN EMPLOYER TO COMPLY**
15 **WITH SUBSECTION (A) OF THIS SECTION.**

16 **(2) THE MODEL NOTICE CREATED UNDER PARAGRAPH (1) OF**
17 **THIS SUBSECTION SHALL BE PRINTED IN ENGLISH, SPANISH, AND ANY OTHER**
18 **LANGUAGE THAT THE COMMISSIONER DETERMINES IS NEEDED TO NOTIFY**
19 **EMPLOYEES OF THE EMPLOYEES' RIGHTS UNDER THIS SUBTITLE.**

20 **(D) AN EMPLOYER MAY COMPLY WITH SUBSECTION (A) OF THIS**
21 **SECTION BY:**

22 **(1) DISPLAYING THE POSTER CREATED BY THE COMMISSIONER**
23 **UNDER SUBSECTION (C) OF THIS SECTION IN A CONSPICUOUS AND ACCESSIBLE**
24 **AREA AT THE LOCATION IN WHICH THE EMPLOYEES WORK;**

25 **(2) INCLUDING THE NOTICE CREATED BY THE COMMISSIONER**
26 **UNDER SUBSECTION (C) OF THIS SECTION IN AN EMPLOYEE HANDBOOK OR**
27 **OTHER WRITTEN GUIDANCE TO EMPLOYEES CONCERNING EMPLOYEE BENEFITS**
28 **OR LEAVE PROVIDED BY THE EMPLOYER; OR**

29 **(3) DISTRIBUTING THE NOTICE CREATED BY THE COMMISSIONER**
30 **UNDER SUBSECTION (C) OF THIS SECTION TO EACH EMPLOYEE WHEN THE**
31 **EMPLOYEE IS HIRED.**

32 **(E) IF AN EMPLOYER DECIDES NOT TO USE THE MODEL NOTICE**
33 **CREATED BY THE COMMISSIONER UNDER SUBSECTION (C) OF THIS SECTION,**

1 THE NOTICE PROVIDED BY THE EMPLOYER SHALL CONTAIN THE SAME
2 INFORMATION THAT IS INCLUDED IN THE MODEL NOTICE.

3 (F) THE NOTICE MAY BE DISTRIBUTED ELECTRONICALLY BY THE
4 EMPLOYER TO THE EMPLOYER'S EMPLOYEES.

5 (G) AN EMPLOYER WHO VIOLATES THIS SECTION IS SUBJECT TO A CIVIL
6 PENALTY NOT EXCEEDING \$125 FOR THE FIRST VIOLATION AND \$250 FOR EACH
7 SUBSEQUENT VIOLATION.

8 **3-1206.**

9 (A) (1) AN EMPLOYER SHALL KEEP, FOR AT LEAST 3 YEARS, A
10 RECORD OF:

11 (I) EARNED SICK LEAVE ACCRUED BY EACH EMPLOYEE;
12 AND

13 (II) EARNED SICK LEAVE USED BY EACH EMPLOYEE.

14 (2) AN EMPLOYER MAY KEEP THE RECORD IN THE SAME MANNER
15 THAT THE EMPLOYER KEEPS OTHER RECORDS REQUIRED TO BE KEPT UNDER
16 THIS TITLE.

17 (B) AFTER GIVING THE EMPLOYER NOTICE AND DETERMINING A
18 MUTUALLY AGREEABLE TIME FOR THE INSPECTION, THE COMMISSIONER MAY
19 INSPECT A RECORD KEPT UNDER SUBSECTION (A) OF THIS SECTION FOR THE
20 PURPOSES OF DETERMINING WHETHER THE EMPLOYER IS COMPLYING WITH
21 THE PROVISIONS OF THIS SUBTITLE.

22 **3-1207.**

23 (A) WHENEVER THE COMMISSIONER DETERMINES THAT THIS SUBTITLE
24 HAS BEEN VIOLATED, THE COMMISSIONER:

25 (1) MAY TRY TO RESOLVE ANY ISSUE INVOLVED IN THE
26 VIOLATION INFORMALLY BY MEDIATION;

27 (2) WITH THE WRITTEN CONSENT OF THE EMPLOYEE, MAY ASK
28 THE ATTORNEY GENERAL TO BRING AN ACTION IN ACCORDANCE WITH THIS
29 SECTION ON BEHALF OF THE EMPLOYEE; AND

1 **(3) MAY BRING AN ACTION ON BEHALF OF AN EMPLOYEE IN THE**
2 **COUNTY WHERE THE VIOLATION ALLEGEDLY OCCURRED.**

3 **(B) (1) AN EMPLOYEE MAY BRING A CIVIL ACTION IN A COURT OF**
4 **COMPETENT JURISDICTION AGAINST THE EMPLOYER FOR A VIOLATION OF THIS**
5 **SUBTITLE.**

6 **(2) AN ACTION MAY BE BROUGHT UNDER PARAGRAPH (1) OF THIS**
7 **SUBSECTION WHETHER OR NOT THE EMPLOYEE FIRST FILED A COMPLAINT**
8 **WITH THE COMMISSIONER.**

9 **(C) AN ACTION BROUGHT UNDER SUBSECTION (A) OR (B) OF THIS**
10 **SECTION SHALL BE FILED WITHIN 3 YEARS AFTER THE OCCURRENCE OF THE**
11 **ACT ON WHICH THE ACTION IS BASED.**

12 **(D) (1) IF, IN AN ACTION UNDER SUBSECTION (A) OR (B) OF THIS**
13 **SECTION, A COURT FINDS THAT AN EMPLOYER VIOLATED THIS SUBTITLE, THE**
14 **COURT MAY AWARD THE EMPLOYEE:**

15 **(I) THE FULL MONETARY VALUE OF ANY UNPAID EARNED**
16 **SICK LEAVE;**

17 **(II) ACTUAL ECONOMIC DAMAGES SUFFERED BY THE**
18 **EMPLOYEE AS THE RESULT OF THE EMPLOYER'S VIOLATION OF THIS SUBTITLE;**

19 **(III) AN ADDITIONAL AMOUNT NOT EXCEEDING 3 TIMES THE**
20 **DAMAGES AWARDED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH;**

21 **(IV) REASONABLE COUNSEL FEES AND OTHER COSTS; AND**

22 **(V) ANY OTHER RELIEF THAT THE COURT DEEMS**
23 **APPROPRIATE, INCLUDING:**

24 **1. REINSTATEMENT TO EMPLOYMENT;**

25 **2. BACK PAY; AND**

26 **3. INJUNCTIVE RELIEF.**

27 **(2) IF BENEFITS OF AN EMPLOYEE ARE RECOVERED UNDER THIS**
28 **SECTION, THEY SHALL BE PAID TO THE EMPLOYEE WITHOUT COST TO THE**
29 **EMPLOYEE.**

1 **(3) IF THE ACTION WAS BROUGHT BY THE ATTORNEY GENERAL,**
2 **THE COURT MAY AWARD A FINE OF \$1,000 PER VIOLATION TO THE STATE.**

3 **3-1208.**

4 **(A) IN THIS SECTION, "ADVERSE ACTION" INCLUDES:**

5 **(1) DISCHARGE;**

6 **(2) DEMOTION;**

7 **(3) THREATENING THE EMPLOYEE WITH DISCHARGE OR**
8 **DEMOTION; AND**

9 **(4) ANY OTHER RETALIATORY ACTION THAT RESULTS IN A**
10 **CHANGE TO THE TERMS OR CONDITIONS OF EMPLOYMENT THAT WOULD**
11 **DISSUADE A REASONABLE EMPLOYEE FROM EXERCISING A RIGHT UNDER THIS**
12 **SUBTITLE.**

13 **(B) A PERSON MAY NOT INTERFERE WITH THE EXERCISE OF, OR THE**
14 **ATTEMPT TO EXERCISE, ANY RIGHT GIVEN UNDER THIS SUBTITLE.**

15 **(C) AN EMPLOYER MAY NOT:**

16 **(1) TAKE ADVERSE ACTION OR DISCRIMINATE AGAINST AN**
17 **EMPLOYEE BECAUSE THE EMPLOYEE EXERCISED IN GOOD FAITH THE RIGHTS**
18 **PROTECTED UNDER THIS SUBTITLE; OR**

19 **(2) COUNT EARNED SICK LEAVE THAT AN EMPLOYEE TOOK IN**
20 **ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE AS AN ABSENCE THAT**
21 **MAY LEAD TO OR RESULT IN ANY ADVERSE ACTION TAKEN AGAINST THE**
22 **EMPLOYEE.**

23 **(D) THE PROTECTIONS AFFORDED UNDER THIS SUBTITLE SHALL APPLY**
24 **TO AN EMPLOYEE WHO MISTAKENLY, BUT IN GOOD FAITH, ALLEGES A**
25 **VIOLATION OF THIS SUBTITLE.**

26 **3-1209.**

27 **(A) AN EMPLOYEE, IN BAD FAITH, MAY NOT:**

28 **(1) FILE A COMPLAINT WITH THE COMMISSIONER ALLEGING A**
29 **VIOLATION OF THIS SUBTITLE;**

1 **(2) BRING AN ACTION UNDER § 3-1207 OF THIS SUBTITLE; OR**

2 **(3) TESTIFY IN AN ACTION UNDER § 3-1207 OF THIS SUBTITLE.**

3 **(B) AN EMPLOYEE WHO VIOLATES THIS TITLE IS GUILTY OF A**
4 **MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING**
5 **\$1,000.**

6 **3-1210.**

7 **THIS SUBTITLE MAY BE CITED AS THE MARYLAND EARNED SICK LEAVE**
8 **ACT.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2014.